

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTINGS: BILASPUR

Original Application No.203/00304/2016

Jabalpur, this Wednesday, the 01st day of January, 2020

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE SHRI B.V. SUDHAKAR, ADMINISTRATIVE MEMBER

Y. Ravi s/o Surya Rao aged about 40 years presently working as
TPC/SECR/Bilaspur R/o A/304, Vaishali Residency Near Gudaku
Factory, Shankar Nagar, Bilaspur Chhattisgarh 495004

-Applicant

(By Advocate-Shri A.V. Shridhar)

V e r s u s

1. Union of India,
Through the Secretary
Railway Board Rail Bhawan
New Delhi 110001

2. General Manager, South East Central Railway
New GM Building Bilaspur Chhattisgarh 495004

3. Chief Electrical Distribution Engineer
South East Central Railway,
New GM Building, Bilaspur,
Chhattisgarh 495004

4. Deputy Chief Electrical Engineer (TRD)
South East Central Railway
Bilaspur Chhattisgarh 495004

- Respondents

(By Advocate-Shri R.N. Pusty)

(Date of reserving the order:-22.11.2019)

ORDER

By Ramesh Singh Thakur, JM:-

This Original Application has been filed against the order dated 27.12.2014 (Annexure A/1) whereby the Revision Petition filed by the applicant has been rejected.

2. The applicant has prayed for the following reliefs:-

“8.1 That, the learned Tribunal may kindly be pleased to quash the order No.P-HQ/DAR/612/Y.R./2014 dated 27.12.2015 (sic 27.12.2014) Annexure A/1 and Annex A/5 dated 20.01.2014 and order dtd. 17.07.2014.

8.2 That, the Hon’ble Tribunal may kindly be pleased to direct the respondents to restore the benefits deprived to the applicant in pursuance to the orders of punishment.

8.3 Cost of the Original Application.

8.4 Any other relief which the learned Tribunal deems fit and proper may be awarded.”

3. Precisely the case of the applicant is that while working as Senior Section Engineer (TPC)/Headquarter, the applicant was served with the charge sheet on 18.07.2013 allegedly misconduct on account of signing the attendance register despite of absence and irregularity as to

misplace the TP register. A copy of same is annexed at Annexure A/2.

4. The applicant in response to the memorandum had filed his response and denied the charged allegations on 29.07.2013. On denial of charges, the First Preliminary Hearing of the applicant was conducted on 11.09.2013, wherein the applicant admitted the guilt under coercion and inducement to drop the proceedings. A copy of preliminary denial dated 29.07.2013 and the statement dated 11.09.2013 is annexed at Annexure A/3. On 11.09.2013, the enquiry report was submitted, holding the applicant guilty of the charges and the applicant was served with a show cause notice on 13.09.2013. The applicant submitted his reply to the show cause notice on 20.09.2013, denying the charges putting forth the circumstances under which the admission was made. A copy of enquiry report dated 11.09.2013, show cause notice dated 13.09.2013 and the reply to the show cause dated 20.09.2013 is annexed as Annexure A/4. On

08.10.2013 the applicant was directed to make remarks on the admission or denial of the charges to which the applicant submitted that the admission of guilt was not unconditional but under inducement to drop the proceedings. On 20.01.2014 a major penalty of “reduction of pay from Rs.21540 + Rs.4600/- (GP) in Pay Band of Rs.9300-34800/- + Rs.4600 (GP) by 03 stages to pay Rs.19290/- + Rs.4600(GP) in pay band of Rs.9300-34800/- for a period of three years was imposed. The period of punishment of 03 (Three) years shall operate to postpone the future increments, was imposed on the applicant on the sole premise that the applicant had admitted his guilt. A copy of punishment order is annexed at Annexure A/5. The applicant aggrieved by the order of imposition of punishment filed an appeal before the appellate authority on 30.01.2014 and the appellate authority vide its order dated 17.07.2014 altered the vigour of the penalty imposed on the applicant by reducing the period from three to two years. A copy of appeal memo

dated 30.01.2014 and the order dated 17.07.2014 is annexed as Annexure A/6 colly. On 11.08.2014, the applicant preferred revision before the authority, and the revisional authority vide order dated 27.12.2014 refused to interfere with the appellate order and the revision petition was dismissed. A copy of memo of revision dated 11.08.2014 is annexed as Annexure A/7.

5. The main grounds for challenging the action of the respondents that the impugned order has been passed without considering the fact that applicant had been denied the chance of fair hearing during the enquiry stage and the admission of guilt obtained on inducement, threat and coercion is no admission in the eyes of law. The timely retraction from the admission has not been considered by the authority, thereby causing serious prejudice to the applicant. The respondents ought to have held that the applicant had sufficiently explained the reasons for admission being made under inducement and duress and had retracted from the same on the first opportunity,

therefore no punishment could have been awarded. As per Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 provides the procedure for imposition of major penalties. A conjoint reading of Sub Rule 17 and Sub Rule 20 would show that the department has to lead the evidence and witnesses and after closure of the department witnesses, the employees get an opportunity to lead his defence. No departmental witnesses have been examined and the enquiry officer directly called the applicant to depose thereby leading to inevitable conclusion that the procedure as prescribed has not been followed and the admission was obtained under inducement and duress.

6. The respondents have filed their reply to the O.A. It has been submitted by the replying respondents that the inquiry was held under Rule 9 of the Railway Servant (Discipline and Appeal) Rules, 1968 (hereinafter referred to as “the Rules, 1968”). Inquiry officer vide his report dated 11.09.2013 (Annexure A/4) concluded that since the

charges have been accepted by the charged official, ispo-facto articles of charge-I and II were proved. Based on the inquiry report and final defense statement (page 22 of O.A.), disciplinary authority imposed penalty vide order dated 20.01.2014 (Annexure A/5). Applicant preferred appeal vide Annexure A/6 against the order of disciplinary authority and the appellate authority vide order dated 17.07.2014 has reduced the period punishment imposed by disciplinary authority from three years to two years. Applicant preferred revision petition to the revision authority against the order of appellate authority which was rejected vide order dated 27.12.2014. It has been submitted by the replying respondents that in view of the law settled by Hon'ble Apex Court in the matters of ***Chairman & MD V.S.P. and Others vs. Goparaju Sri Prabhakara Hari Babu*** in Appeal (Civil) No.1770 of 2008 decided on 05.03.2008 held, that when charges were admitted and in the absence of any other defects in the enquiry, court cannot interfere in the penalty order.

Replying respondents have also relied upon the judgments passed by Hon'ble Apex Court in the matters of ***Delhi Transport Corporation*** vs. ***Shyam Lal*** in Appeal (Civil) No.9610 of 2003 decided on 12.08.2004; ***Union of India*** vs. ***T. Subba Rao***; 2008(4) ALT 262 (DB) of Hon'ble High Court, whereby it has been held that when the employee admitted the shortage of stock, there is no need to conduct any further departmental verification. In the reply the respondents have submitted that the applicant has accepted the charges unconditionally without any fear or pressure, in answer to question No.7 during the first preliminary hearing. So, the punishment was imposed in terms of Rule 6 of the Rules, 1968 and Rule 3 of the Railway Service (Conduct) Rules, 1966. The punishment order was passed after following the principles of natural justice and giving reasonable opportunity to the applicant. The lapses were caught by vigilance department and the inquiry was conducted by inquiry officer cum Additional Deputy General Manager and the case was presented by

presenting officer cum vigilance officer. The applicant had not even sought for defence witness to present his case even though the applicant was given opportunity vide Para 3 of Charged Memorandum dated 18.07.2013 (Annexure A/2). So, law is well settled that when allegations and charges are admitted, giving opportunity or enquiry is not necessary.

7. Learned counsel for the applicant has filed M.A. No.203/00281/2016 for condoning the delay of three months in filing the Original Application. In this application it has been submitted by the applicant that the revision petition was decided by the authority on 27.12.2014 and this O.A. has been filed on 09.03.2016 i.e. after about one year and three months of the impugned order. In view of the law settled by the Hon'ble High Court of Madhya Pradesh in the matters of ***Ramesh Chand vs. Union of India and others*** 2011 (3) M.P.L.J. 58 wherein it has been held as under:-

“The Administrative Tribunals are constituted to deal with service matters. They must, therefore, put a

construction which harmonizes and further the aim and object of the legislation instead of impeding the same. They should adopt a liberal and justice oriented approach to enable a litigant to get his dispute decided on merits and not otherwise. This being so, in our considered opinion, the claim of the petitioner could not have been legally rejected solely on the ground of delay and his case ought to have considered on merits.”

In the instant case, delay is about one year and three months and explanation has been given in the application for condonation of delay. Resultantly, this M.A. is allowed and delay is condoned in filing the O.A.

8. We have heard the learned counsel for both the parties and have also gone through the documents on record.

9. From the pleadings itself, it is ample clear that the charge sheet was served upon the applicant and after considering the representation made by the applicant, the disciplinary proceeding was initiated. It is also an admitted fact that as the first preliminary hearing was conducted on 11.09.2013. The applicant had admitted the charges

unconditionally in answer to question No.7 Page 17 of the paper book which reads as under:

“Q.No.7 Do you accept the charges leveled against you?”

Ans. I accept the charges unconditionally.”

If this whole document is seen, whereby question has been put to the applicant by the inquiry officer. The applicant has admitted the receipt of charged memo dated 18.07.2013 and the letter of appointment of inquiry officer on 19.08.2013. Further the applicant has perused the documents stated in Annexure III with the memorandum of charge. It has also been admitted by the applicant that he had submitted his reply on 29.07.2013. The applicant has understood the charges framed against him. It is ample clear from this document that there is no iota of any evidence or circumstance, which suggests that there is any question of undue influence put forth by inquiry officer while recording statement of the applicant in preliminary hearing. Though the applicant has made the allegations that in the preliminary hearing there was denial regarding

the charges levelled against him and applicant admitted the guilt coercion and inducement to drop the proceedings.

10. In reply of the respondents it has specifically denied the allegations putforth by the applicant regarding the coercion and inducement on behalf of the inquiry officer which leads to admission of guilt. From annexure A/3, it is very clear that the statement given by the applicant is without any inducement or coercion. Furthermore, the applicant has failed to lead any evidence to prove facts of coercion and inducement which has been made by the inquiry officer or respondent-authority.

11. Replying respondents have also relied upon the judgment passed by the Hon'ble Apex Court in ***Goparaju Sri Prabhakara Hari Babu*** (supra) wherein it has been held that when the charges were admitted and in the absence of any other defects in the enquiry, court cannot interfere in the penalty order. In the instant case there is admission on the part of the applicant which is clear as per

Annexure A/3 and there is no iota of any evidence regarding the undue influence, coercion and inducement.

12. In view of the above, we do not find any illegality and ambiguity on the action of the respondent-department.

13. Resultantly, this Original Application is dismissed.

No costs.

(B.V. Sudhakar)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member

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