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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2503/2001

New Delhi, this the 26th day of September 2001

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. M.P. SINGH, MEMBER (A)

Shri Gauri Prasad,
S/o Shri Komal,
Parcel Porter,
Under Station Superintendent,
Northern Railway,
Meerut City.

... Applicant

(By Advocate: Shri B.S. Mainee with Ms. Meenu Mainee)

V E R S U S

Union of India

Through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
3. The Senior Divisional Commercial Manager,
Northern Railway,
State Entry Road,
New Delhi.

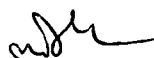
... Respondents

ORDER (ORAL)

By Shri M.P. Singh:

The applicant is aggrieved by the orders dated 6.7.1999 issued by the Divisional Commercial Manager dated 29.1.2001 issued by the Sr. Divisional Commercial Manager, D.R.M.'s office, N.R., New Delhi and also order dated 5.7.2001 issued by the Additional Divisional Railway Manager (Op.), N.R., New Delhi.

2. Brief facts of the present case are that the applicant was working as Ticket Collector ('TC' in



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short) in the Railways. While working as TC, he was issued with a chargesheet. The charge levelled against him is as follows:-

The said Shri Gowri Prasad, TCR/DLI, while manning gate no.5/6 held on 14.5.97, was subjected to vigilance check and was detected to have committed serious irregularity in as much as:

"1. That he had collected Rs.50/- from passenger and intended to pocket the money for his personal use.

By the above act of omission and commission Shri Gowri Prasad, TCR/DLI failed to maintain devotion to duty and absolute integrity and acted in a manner unbecoming of a Railway Servant, thereby contravened Rule no.3 (i) (ii) (iii) of Rly. Servants Conduct rules 1966."

Thereafter an inquiry was conducted into the charges leveled against him. The inquiry officer concluded the inquiry and found the charges proved against the applicant. The disciplinary authority, after taking into consideration the report of the inquiry officer, had passed the impugned order dated 6.7.1999 whereby the applicant was reverted to his substantative post of Parcel Porter in the grade of Rs.2550-3200 permanently. The applicant had filed an appeal against the aforesaid order. The appellate authority after considering the appeal of the applicant had rejected the same. Thereafter the applicant feeling aggrieved by the aforesaid orders, had filed OA No.1878/1999. The Tribunal vide its order dated 30.11.2000 had set aside the aforesaid order of the appellate authority and remitted the case back to him to dispose of the appeal. Thereafter the appellate authority had passed an order dated 29.1.2001 rejecting the aforesaid appeal of the



applicant. The applicant has now filed the present OA on the ground that the order of the appellate authority is non-speaking order as the points raised by the applicant in his appeal have not been considered by the appellate authority. According to him, the material witness, i.e., the passenger, who had paid Rs.50/-, has not been examined. The disciplinary authority and the appellate authority relied upon the statement given by the Passenger in the preliminary inquiry whereas the said witness has not participated in the inquiry and the applicant has not been offered an opportunity to cross-examine him. In support of his contention, the learned counsel for the applicant relied upon the Hon'ble Supreme Court's judgement in the case of Hardwari Lal Vs. State of U.P. & Ors., ATJ 2000 (1) 244. According to the learned counsel for the applicant, in the aforesaid case, the Hon'ble Supreme Court has held that the statement given by the witness during the course of the preliminary inquiry shall not be relied upon unless that witness has participated in the inquiry and has given the statement during the course of the inquiry.

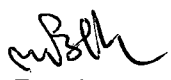
3. We have heard learned counsel for the applicant and perused the material placed on record.

4. After perusing the judgement of the Hon'ble Supreme Court in the Hardwari Lal's case (supra), we find that the said judgement is distinguishable and not applicable in the present case. We also find that the order passed by the appellate authority is a reasoned



and speaking order. We also find from the earlier judgement of the Tribunal dated 30.11.2000 in OA No.1878/1999 that all the points raised by the applicant in the present OA had already been considered by the Tribunal and rejected. No new point has been raised by the applicant in the present OA which has not been considered and adjudicated by the Tribunal earlier.

5. In view of the aforesaid position, we do not find any merit in the present OA and, therefore, there is no ground to interfere with the aforesaid impugned orders of the disciplinary authority, the appellate authority and the revisional authority. The present OA is, accordingly, dismissed at the admission stage itself. No costs.


(M.P. SINGH)
MEMBER(A)


(ASHOK AGARWAL)
CHAIRMAN

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