

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1279/99

10

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 29th day of November, 2000

Shri T.R.Vashishth
Retired Carriage and Wagon Superintendant
Northern Railway
Delhi
presently D-90, Krishna Park
Dewali Road, Khanpur
New Delhi. ... Applicant

(By Ms. Meenu Mainee, Advocate)

Vs.

1. Union of India through
The Secretary
Railway Board
Ministry of Railways
New Delhi.
2. The General Manager
Northern Railway
Baroda House
New Delhi.
3. The Sr. Divisional Mechanical Engineer
Carriage & Wagon
Northern Railway
D.R.M.Office
New Delhi. .. Respondents

(By Shri T.D.Yadav, proxy of Shri D.S.Jagotra,
Advocate)

O R D E R (Oral)

By Shri Govindan S. Tampi, Member(A):

This application is directed against the order dated 29.5.1998 issued by the Sr. D.M.E. (C&W), New Delhi communicating the orders of the Railway Board, imposing of penalty of 50% cut in his pension on permanent basis.

2. The applicant who was working as Carriage and Wagon Superintendant in the Northern Railway, who retired on superannuation on 30.6.1996, had been served with charge-sheet for a major penalty on

(11)

21.1.1994 for allegedly having received a sum of Rs.100/- as bribe on 16.8.1993 from one Shri Nanoo Ram, Train Examiner for not issuing a charge sheet for minor penalty against Shri Nanoo Ram. The applicant was placed under suspension on 17.8.1993. Thereafter an enquiry was held wherein as many as eight witnesses were produced. According to the applicant, none of the prosecution witnesses directly implicated him. After the detailed enquiry proceedings, the enquiry officer held that keeping in view of all oral, documentary and circumstantial evidence available on record, the charge against the Charged Officer stood stands proved to the extent of acceptance of bribe amount. Following this, the advice of the UPSC was taken and the impugned order dated 23.4.1998 was issued. Hence the OA.

3. Heard the counsel for the applicant and the respondents. Ms. Meenu Mainee, learned counsel for the applicant states that the enquiry officer had failed in proving the charge against the applicant as the applicant had never demanded any bribe from Shri Nanoo Ram, the complainant, nor there was any motive and as such the question of any bribe money does not arise. She submits that the evidence given by the various prosecution witnesses also did not support the case that there has been a demand or acceptance of Rs.100/- from the complainant. Besides, the complainant, Shri Nanoo Ram, was a totally unreliable character and was a notorious for creating mischief. He had falsely implicated the applicant. It is also quite possible that the amount of Rs.100/- which has been recovered by the CBI officials from the dairy of

the applicant had been put in there by the complainant himself when they were walking together and the diary fell from the hand of the applicant. The charge relating to the demand of the bribe money as well as the motive of the applicant, are not proved, the mere fact of recovery of Rs.100/- from the diary of the applicant should not implicate him. She also states that, in the circumstances, mere recovery of currency note should not lead to any inference that money has been taken as bribe. Therefore the proceedings initiated from the beginning to end are vitiated and in the circumstances, the punishment of forfeiture of 50% of his pension on permanent basis was too harsh and disproportionate a penalty which could have been imposed. She also states that the enquiry officer had not taken into consideration, the complaints made against the complainant by other persons in the organisation also.

4. Contesting the points raised by the learned counsel for the applicant, Shri T.D.Yadav, the learned proxy counsel appearing on behalf of the respondents, states that Shri Nanoo Ram, complainant has confirmed that he has paid an amount of Rs.200/- on earlier occasions and that the amount of Rs.100/- recovered from the diary by the CBI was one of the amounts made as a subsequent payment. He also states that the enquiry officer had arrived at the correct conclusion on the basis of the evidence, which was also endorsed by the UPSC, who was consulted in the matter. The impugned penalty was imposed only thereafter. There was no warrant for any interference by the Tribunal, on the plea on behalf of the respondents.

5. We have given careful consideration to the contentions raised by the counsel on either side. The proceedings initiated against the applicant followed the recovery of Rs.100/- from the diary of the applicant. It is seen that the enquiry has been conducted properly with full opportunities having been given to the applicant to defend himself and prove his case. Recovery of the Rs.100/- was confirmed by PWs No.4 to 6. The enquiry officer has correctly opined that even in the absence of any motive or specific demand, recovery of the amount from the diary of the applicant showed that the charge stood proved. The UPSC who were consulted as the case involved the retired Government servant also held that acceptance of the bribe was proved and therefore the applicant deserved to be punished. The impugned presidential order directing 50% cut in the applicant's pension was issued thereafter. Nothing has been brought on record to show that there was any thing incorrect either with the procedure adopted by the enquiry officer or his report or the decision arrived at by the disciplinary authority.

6. The learned counsel for the applicant referred to the decisions of this Tribunal in the case of Sarala Devi (Smt.) Vs. Commissioner of Police, ATR 1992(1) CAT 648 wherein reliance has been placed on the following observations of the Hon'ble Supreme Court in Suraj Mal Vs. State (Delhi Administration), 1977(4) SCC 595:

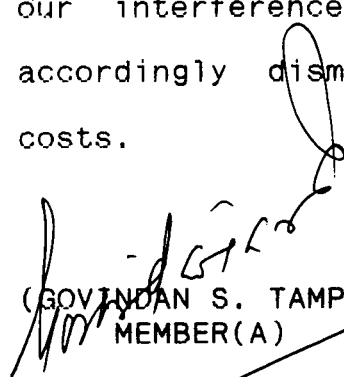
- 5 -

(14)

"Thus mere recovery by itself cannot prove the charge of prosecution against the appellant, in the absence of any evidence to prove payment of bribe or to show that the appellant voluntarily accepted the money."

7. The above decision cannot come to the assistance of the applicant in this case, as it is seen here that the receipt of the amount has been voluntary. Receipt was bribe taking and done willingly, and it has been correctly taken as a misconduct and proceeded against. In the circumstances of the case, it could also not be stated that the penalty imposed was unreasonable.

8. We are not, in the above circumstances, convinced that the applicant has made out any case for our interference. Application therefore fails and is accordingly dismissed. Parties shall bear their own costs.


(GOVINDAN S. TAMPI)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/