

(57)

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1082/98

New Delhi this the 1st day of March, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mrs. Shanta Shastri, Member (A)

Nathu Ram
S/o Shri Pyare Lal
R/o C-73 East Gokul Puri
Amar Colony, Shahdara
Delhi.

...Applicant

(By Advocate: None)

Versus

1. Union of India through
The General Manager
Northern Railway Baroda House
New Delhi.
2. Divisional Railway Manager
Northern Railway
New Delhi.
3. Chief Traffic Manager
Northern Railway/New Delhi.

..Respondents

(By Advocate: None)

ORDER (Oral)

By Reddy, J.-

None appears for the applicant and the respondents. Since the matter is of 1998 and the matter has been expedited, at the request of the applicant we dispose of the OA on merits.

2. The applicant while working as Sr. Booking Clerk was served with the charge Memo containing the Article of charge as under:-

"That he dishonestly and malafide intention and active connivance with Shri Pooran Lal, CBC/Summary Clerk C.No. 102, NDLS recorded in the Summary DTC book account of Shri Mohd. Idris on 25.5.89 an amount of 526/- as SIB paid to get adjusted Rs. 245/- found

(Signature)



excess in the Govt. cash of Shri Mohd. Idris. Thus creating an artificial shortage of Rs. 281/- against him.

By above act of omission and commission, Shri Nathu Ram has failed to maintain absolute integrity devotion to duty and acted in a manner as unbecoming of a Rly. Servant. Thus contravened Rule 3.1 (i) (ii) & (iii) of RSC Rule-1966".

3. Since the applicant had denied the charges, an enquiry has been initiated against him. The Enquiry Officer having examined witnesses and considered the evidence on record, submitted his report holding that the charge has been proved. The Disciplinary Authority, agreeing with the findings of the Enquiry Officer, imposed the punishment of removal from service by the impugned order dated 29.12.93 (Annexure A-1). In the appeal filed by the applicant against the above order, the Appellate Authority reduced the punishment of removal from service to reduction in lowest grade at the initial stage for a period of 10 years with cumulative effect, by order dated 13.7.95 (Annexure A-2). This order has been modified subsequently, by the Appellate Authority in his order dated 27.5.97, reducing the pay of the applicant to the lowest grade of BC grade (Rs. 975-1540(RPS) for a period of 10 years. Accordingly the applicant was reduced from the post of BC Grade Rs. 1200-2040 ~~at~~ which he was ~~holding~~ ^{holding} at that time to the lowest post of BC Grade Rs. 975-1540 (RPS) at Rs. 1270/- instead of Rs. 975/- for a period of 10 years. These orders are under challenge in this OA.

4. We have carefully perused the pleadings in this case and noticed all the grounds urged by the applicant in the OA.

5. The only misconduct that was alleged against the applicant was that he had made a false entry in the Summary DTC book accountal of Shri Mohd. Idris on 25.5.89 of the payment of an amount of Rs. 526/- as SIB paid to him. He has thus created an artificial shortage of Rs. 281/- against him. He was, therefore, alleged to have ~~been~~ contravened the Railway Servant Conduct Rules of 1966. The Enquiry Officer has examined one witness on the side of prosecution. Applicant had not produced any witness on his side. He was, however, examined by the Enquiry Officer. Prosecution has marked Exhibits P-I to P-5 and D-I to D-3 were marked on the side of defence. The Enquiry Officer, considering the evidence on record and after elaborate analysis of the same, came to the conclusion that the charge against the applicant has been fully made out. The Disciplinary Authority, agreed with the findings of the Enquiry Officer and thus found that the charges against the applicant have been established.

6. Several grounds have been urged by the applicant in the OA. It was urged, interalia, that the conclusions arrived at by the Enquiry Officer are not supported by evidence and that the witness examined by him cannot be

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believed and that there was no sufficient evidence before the Enquiry officer to come to the conclusion which he arrived at. It was also urged that the other material witnesses were not examined by the Enquiry Officer.

7. The jurisdiction of the Tribunal to interfere with the orders passed in the disciplinary proceedings in the exercise of its judicial review jurisdiction is very narrow and limited. In B.C. Chaturvedi Vs. Union of India and Ors. JT 1995 (8) SC 65 it has been clearly stated that the judicial review is not an appeal from a decision but a review of the manner in which the decision is made. We cannot, therefore, re-appreciate the evidence to arrive at different findings. The question of sufficiency or otherwise of the evidence cannot also be gone into by us. This is not a case of no evidence as to hold that the order is arbitrary. We have perused the Enquiry Officer's report and we are satisfied ^{that} ~~with~~ the Enquiry Officer's findings are based upon the evidence on record. It is next urged that the impugned orders are cryptic and non-speaking orders. We find that this ground is wholly unacceptable. The Disciplinary Authority has noticed the charge against the applicant and considering the material on record, found himself in agreement with the Enquiry Officer's findings. Infact, the Appellate Authority having considered the entire evidence on record had reduced the punishment

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from that of removal. It cannot, therefore, be said that they have passed cryptic orders without applying mind to the facts of the case.

8. It is next urged that the penalty awarded by the Appellate Authority tantamounts to double jeopardy. As the department has, by reducing the applicant from higher grade to lower grade and fixing the pay in the grade of Rs. 950-1500 tantamounting to multiple punishments. We do not agree. The applicant having been reduced from higher grade to lower grade, the Appellate Authority had fixed his pay in the appropriate grade at the minimum of Rs. 975-1500 and fixed his pay at Rs. 1270. We do not find that the punishment awarded by the Appellate Authority tantamounts to multiple punishment, it is a single punishment of reversion from higher grade to lower grade.

9. We are, therefore, satisfied that there are no infirmities in the impugned order. The OA, therefore, fails and is accordingly dismissed. No costs.

(Mrs. Shanta Shastry)
Member(A)

cc.

(V. Rajagopala Reddy)
Vice-Chairman (J)