

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

(10)

OA No. 324/95

New Delhi, this the 16th day of September, 1999

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)  
HON'BLE SH. S.P. BISWAS, MEMBER (A)

In the matter of:

Sewa Das  
S/o Sh. Parbhati Ram,  
R/o 3/7, Railway Colony,  
Ram Nagar, Paharganj,  
New Delhi-110055. .... Applicant  
(By Advocate: Sh. R.Doraiswamy)

Vs.

1. General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. Chief Commercial Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
3. The Area Manager,  
Northern Railway,  
D.R.M.Office,  
New Delhi. .... Respondents  
(By Advocate: Sh. R.L.Dhawan)

O R D E R (ORAL)

By Hon'ble Sh. S.P.Biswas, M(A)

Applicant, a Superintendent of Commercial Branch of the DRM's office, Northern Railway, New Delhi is challenging the order dated 15.2.89 by which his increment in the scale of Rs.2000-3200 has been withheld for a period of 2 years without cumulative effect arising out of minor penalty proceedings initiated by the respondents. Consequently, the applicant seeks relief in terms of setting aside the impugned orders A-1 to A-3 with all consequential benefits. The applicant has chosen to challenge the aforesaid impugned order on grounds of the following:-

[1]

(a) That the charges of imputation did not enclose a copy of the allegedly defective letter and as such the applicant was deprived of the factual position while giving reply to the memorandum. In other words, the absence of the said incomplete letter resulted in denial of principles of natural justice inasmuch as the applicant had to defend his case without any knowledge of factual details.

(b) The appellate authority ought to have waited till it had decided the appeal of Smt. Sarika Panjabi who was also charged with the same alleged misconduct and proceedings under Annexure A-5. The applicant claims to have made a reference of this point in his reply to the chargesheet as well as in his appeal subsequently.

(c) The appellate authority having regard to the facts and circumstances of the case reduced the penalty on Smt. Sarika Panjabi from W.I.T. for 3 years to that of only "Censure". The applicant, therefore, claims to have been forced to face hostile discrimination while 8 imposing the punishment in terms of

rather minor offence alleged against him vis-a-vis the serious one committed by Smt. Sarika Panjab.

(d) The office copy of the communication will clearly show that the letter was correctly issued for reduction of Rs.4900.20 as delivered in the Settlement Branch. However, some mischief had been played in the Settlement Branch with the connivance of the retired employee and the figures were changed from Rs.49001.20 to Rs.4900.20.

The respondents have opposed the claims on the basis of the finding of the Area Manager as at page 15 of the paperbook. It has been mentioned therein that as a "Supervisor" it was for the applicant to ensure that the amount was written both in figures as well as in words as the amount involved for the deduction was very high.

2. The issue before us is whether an act of misconduct, minor or major, has been established or not against the applicant. In the organisation of the Railways and that too those working in the Commercial <sup>officers/officials</sup> Branch are required to exercise due precaution in issuing letters conveying compensation in monetary terms. A supervisory official and that too directly in charge of such financial matters can't claim immunity of proper Supervisory role. It <sup>was</sup> bounden duty of the Supervisor to have exercised adequate care before issuing the

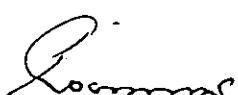
communication touching upon the heavy settlement dues. It is not in dispute that the applicant has shown some dereliction of duty as is evident in his own admission at para 2 of page 18 of the paperbook where he has said that the letter in question has been correctly issued for reduction of Rs.4900.20 and delivered in the Settlement Branch.

3. The applicant's plea that the punishment has been disproportionate as compared to Mrs. Sarika Panjabi cannot be accepted in terms of the law laid down by the Apex Court in the case of Union of India and another Vs. G. Gnyatham JT 1997 (7) SC 572. It was held therein, that the Courts or the Tribunals would not interfere with the administrative decision on the quantum of punishment unless the said punishment was illegal or there was a procedural impropriety or the proceedings have been vitiated by absence of natural justice. It could interfere only if the punishment awarded was outrageous or against the moral standard or shocks judicial conscience. To decide the proportionality of punishment is not the job of the Tribunal/Court.

4. The applicant has also taken the plea of having been discriminated in terms of punishment vis-a-vis Smt. Sarika Panjabi. It is well-settled in law that the mere fact that the respondents have passed a particular order undeservedly in case of other person similarly situated can never be the ground for issuing yet another order in favour of the person claiming relief on the basis of discrimination. Discrimination arises only when there is a legal right and the applicant has no legal right in

claiming that discrimination. This is because the basis on which Smt. Sarika Panjabi has been awarded punishment of "censure" is not before us. Mere saying that yet another employee has been given a lesser punishment in allegedly similar circumstances could not be a basis for claiming relief. Such collateral reliefs, based on comparative evaluation of alleged offences, is alien to law.

5. Taking into consideration the nature of the orders of disciplinary, appellate and revisional authorities, we find no infirmity in the impugned orders. The OA is devoid of merit and is accordingly dismissed but, in the circumstances, without any order as to costs.



( S.P. BISWAS )  
Member (A)

'sd'



(MRS. LAKSHMI SWAMINATHAN)  
Member (J)