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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 541/1998

New Delhi this the 1st day of December. 1999.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

Subhash Chand S/O Ram Narain.
R/O Q.No.126 G Loco Shed,
Railway Colony,
Delhi Sarai Rohilla.
Delhi.

...Applicant

(By Advocate Shri V.P.Sharma)

-Versus-

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Bikaner (Rajasthan).
3. Divisional Mechanical Engineer,
Northern Railway, Bikaner.
4. Asstt. Mechanical Engineer (P),
Northern Railway,
Bikaner (Raj.).

...Respondents

(By Advocate Shri R.L.Dhawan)

O R D E R (ORAL)

Justice Ashok Agarwal:

An order imposing a penalty issued on 20.6.1995 as affirmed in appeal by an order issued on 20.9.1995 is impugned in the present application.

2. Only ground on which Shri V.P.Sharma, the learned counsel appearing in support of the application, has sought to impugn the penalty is that the penalty imposed against the applicant is a major penalty whereas the procedure followed in the disciplinary proceedings is the one provided for

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imposing minor penalty. Hence the only question which arises for our consideration is whether the penalty is a major penalty or a minor penalty. The operative part of the order imposing penalty provides as under:-

"I, therefore, hold you guilty of the charge (s) viz SF 11 levelled against you and have decided to impose upon you the penalty of reduction to a lower stage in same time scale. You are, therefore, reduced from the stage of Rs.1350 to the stage of Rs.950 in the scale of Rs.950-1500 you are holding at present for a period of three years from the date of this order without postponing future increments."

3. Part III of the Railway Servants (Discipline and Appeal) Rules, 1968 provides for penalties and disciplinary authorities. Rule 6 (iii) (b) and Rule 6 (v) which are relevant for the issue at hand provide as under:-

"6(iii)(b) Reduction to a lower stage in the time scale of pay for a period not exceeding three years, without cumulative effect and not adversely affecting his pension."

"6(v). Save as otherwise provided for in clause (iii-b) reduction to the lower stage in the time-scale of pay for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of pay;"

4. It has been contended by Shri Sharma that the penalty imposed reduces the applicant from the stage of Rs.1350 per month to the stage of Rs.950 per month. This reduction, according to him is in respect of more than one stage in the time scale of pay. According to him, the reduction has wiped out 16

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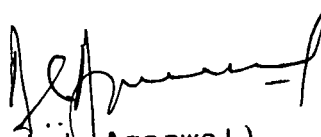
increments which the applicant had earned from the stage of Rs.950 per month to which he has now been reduced. According to him, the reduction is not in respect of one stage but in respect of 16 stages. The aforesaid penalty, therefore, cannot be termed as a minor penalty as provided under Rule 6 (iii) (b) but will be a major penalty as provided under Rule 6 (v). Shri Sharma has highlighted the difference in the wording appearing in Rule 6 (iii) (b) and Rule 6 (v). Whereas Rule 6 (iii) (b) speaks of reduction to a lower stage in the time scale of pay, Rule 6 (v) deals with reduction to the lower stage in the time-scale of pay. (Emphasis provided for highlighting the contention advanced by Shri Sharma). According to Shri Sharma, when the rule framers contemplated reduction to a lower stage, they meant reduction to the stage immediately prior to the ~~increment~~^{stage} raising the pay of the applicant to Rs.1350 per month. As far as Rule 6 (v) is concerned, the same speaks of reduction to the lower stage in the time scale of pay. According to him, this contemplates reduction to a stage which is the lowest in the time scale of pay.


5. In our view, there is no justification to construe the aforesaid provisions in the manner Shri Sharma desires us to construe. In our ~~view~~^{judgement} there is no distinction between the phrases "reduction to a lower stage in the time scale of pay" and "reduction to the lower stage in the time scale of pay" appearing in the aforesaid clauses. Aforesaid clauses, as we read them, provide that when the reduction is made to a lower stage in the time scale of pay for a period

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not exceeding three years or without cumulative effect and without adversely affecting pension. the same will be a minor penalty as provided in Rule 6 (iii) (b). Where, however, the penalty of reduction to the lower stage in the time scale of pay is for a period exceeding three years or with cumulative effect and/or adversely affects the pension, the same would amount to major penalty as provided in Rule 6 (v). In our view, the reduction to a lower stage does not necessarily mean that the reduction has to be to the immediate next below stage, it can be to any lower stage. The moment it is found that the punishment awarded is a minor penalty, no exception can be had to the procedure followed for imposing the said penalty.

6. Present application, in the circumstances, we find is devoid of merit. The same is accordingly dismissed. There will, however, in the facts and circumstances of the case, be no order as to costs.


(Ashok Agarwal)
Chairman


(Shanta Shastri)
Member(A)