

Central Administrative Tribunal, Principal Bench

OA No.2997/97

New Delhi this the 24th day of July, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman (J)  
Hon'ble Mrs. Shanta Shastry, Member (Admnv)

(6)

Sunil Prashar,  
S/o Sh. J.P. Sharma,  
working as Junior Engineer,  
(Train Lighting),  
New Delhi Railway Station,  
Western Railway,  
Kota Division.

...Applicant

(By Advocate Shri K.K. Patel)

-Versus-

1. General Manager,  
Western Railway,  
Church Gate,  
Mumbai.

2. Divisional Railway Manager,  
Western Railway,  
Kota.

3. Senior Divisional Electrical Engineer,  
(Power) Western Railway,  
Kota.

...Respondents

(By Advocate Shri P.S. Mahendru)

O R D E R (ORAL)

By Justice V. Rajagopala Reddy:

The applicant was working as Junior Engineer (Train Lighting) at the New Delhi Railway Station. On 21.4.95 the following charge was issued to him:

"Charge: in subordination and misconduct

statement of allegations on 21.4.1995 AEE (P) KTT has carried out an inspection of CEE/EL/NDLS office, you were not found present on duty i.e. at the place of duty as well as you have not signed the muster till the time of inspection made by AEE (P) KTT. Accordingly AEE (P) KTT has marked as cross xx xx in the muster roll. Subsequently you have signed the muster above the cross mark of dated by 22.4.1995 made by AEE (P) KTT and shown your false and fraudulent presence on dated 21.4.1995.

(Signature)

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By this mischievous indisipline Act you have not only violated the instructions of competent authority but also tried to cheat administration for which you are held responsible.

Sd/-Sr.DEE (P) KTT  
dated 16.5.1995"

2. Upon enquiry, the applicant was imposed the punishment of reduction of his pay to the minimum of the scale of pay for a period of three years without future effect by the impugned order dated 25.9.97. The appeal was, however, rejected by the appellate authority. Hence, the present OA. The learned counsel for the applicant submits that in fact the applicant was present on duty. The learned counsel also seeks to support his contention by filing the attendance sheet, as obtained from the department, on the relevant date. It is further contended that though the chargesheet was proposed to be cancelled the disciplinary authority, however, went ahead with the enquiry without considering that the applicant was present on the relevant date.

3. The learned counsel for the respondents contends that on the basis of the material on record it was found that the applicant was guilty of the charge. The proposed cancellation was not accepted by the authorities. Hence, it cannot be considered at this stage by this court.

4. We have considered the contentions raised on either side. Since the disciplinary authority has imposed the punishment after considering the entire material on record, it is not open for us to interfere with the said finding. The applicant brings to our notice the proceedings dated 7.12.97 stated to have been signed by the Ex. Senior DEE, by which it was proposed to cancel the charge as the

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(8)

applicant was on duty on the particular date. The applicant does not appear to have raised the plea, regarding these proceedings, any where, either in his reply to the charges, defence statement, before the enquiry officer or before the disciplinary authority. It is, therefore, not open to raise the objection at this stage. The learned counsel for the respondents submits that the proposal was not accepted by the competent authority. It is also seen that the applicant had not denied the allegations made in the chargesheet, as he had not made any representation against the same.

5. In the circumstances, we do not find any merit in the OA. The OA is dismissed. No costs.

Shanta S  
(Smt. Shanta Shastry)  
Member (Admnv)

'San.'

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