

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1517/94

NEW DELHI THIS THE 25th DAY OF AUGUST, 1994.

MR. JUSTICE S.K.DHAON, ACTING CHAIRMAN
MR. B.N.DHOUNDIYAL, MEMBER (A)

Shri R.S.Lal
Claim Inspector
Under Dy.Chief Commercial Manager(Claims)
Northern Railway
Varanasi Cantt.

APPLICANT

BY ADVOCATE SHRI B.S.MAINEE

Vs.

Union of India Through:

1. The General Manager,
Northern Railway
Baroda House,
New Delhi.
2. The Chief Claims Officer,
Northern Railway,
Baroda House
New Delhi.
3. The Dy.Chief Commercial Manager(Claims)
Northern Railway
Railway Station
Varanasi Cantt.

ORDER

JUSTICE S.K.DHAON:

The applicant, a Claims Inspector in the Northern Railway, is aggrieved by an order awarding him a minor punishment of withholding of an increment(temporary) for one year. Hence this application.

2. The charge levelled against the applicant is that while working as Claims Inspector in November, 1989, he failed to maintain devotion to duty inasmuch as he wrongly verified the claim of coir ropes at the rate of Rs.11/-per Kg.in place of bill rate of Rs.4.70 per Kg. as confirmed later on by other C.M.I(Claim). By making a wrong verification of the claim the applicant caused payment of excess amount to the claimant.

Sd/-

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3. The applicant offered an explanation in writing. On 26.2.1992, the relevant competent authority passed an order withholding the increment of the applicant for one year. On 19.8.1993, the applicant was communicated the order of the appellate authority to the effect that the order of punishment passed on 26.2.1992 had been set aside and the competent authority was directed to pass a fresh order.

4. The Deputy Chief Commercial Manager on 19.8.1993 passed a fresh order of withholding of increment(temporary) for one year. The appellate authority, namely the Chief Claims Officer on 17.6.1994, dismissed the appeal. The two orders are being impugned in the present original application.

5. The argument advanced in the fore-front is that the disciplinary authority failed to pass a speaking order. This criticism appears to be somewhat correct. However, the defect, in our opinion, stands cured by the order of the appellate authority. The appellate authority recorded a finding that there was failure in the working of the applicant as a Claim Inspector. According to it, he(the applicant) had all the requisite experience and knowledge of dealing with the subject of verification. He should have succeeded in collecting the Beojak from the party and should have done verification. Hundi had been retired through the Bank. Even presuming that the party did not divulge all the details, he should have correctly worked out prevalent market rates. A Claim Inspector having the seniority like the applicant cannot be excused for such a serious lapse which caused monetary loss to the administration. On the question of punishment awarded, the appellate authority felt that rather a lenient punishment had been given to the applicant by the disciplinary authority.

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6. Counsel for the applicant has vehemently urged that in the memorandum of appeal, the applicant had cried hoarse that the claimant(the party) did not have any material in its possession so as to enable the applicant to verify the correctness of the claim. This aspect has been, according to us, dealt with by the appellate authority. We are satisfied that the appellate authority passed its order after due application of mind. Applying the rule of evidence applicable to the departmental proceedings i.e. the preponderance of probabilities, we are unable to record a finding that the appellate authority while dismissing the appeal acted either illegally or irrationally or perversely. No ground, therefore, exists for our interference.

7. The learned counsel for the applicant has relied upon a decision of this Tribunal in **OA No.1220/88(SH.N.L. KATARIA Vs.UNION OF INDIA & OTHERS)** decided on 7.12.1990. In that case, the delinquent Government servant had come up to this Tribunal against an order of the disciplinary authority awarding him a minor punishment during the pendency of the appeal preferred by him. Even without awaiting the decision in the appeal, this Tribunal proceeded to dispose of the original application finally. It interfered on the short ground that the order of the disciplinary authority was a non-speaking order. This case is distinguishable on the ground that before us there is an appellate order which is a speaking order. The order of the disciplinary authority having merged in the order of the appellate authority, illegality, if any, has to be discernible in the appellate order.

8. The original application is dismissed summarily.

B.N. Dhoundiyal
(B.N.DHOUNDIYAL)
MEMBER(A)
SNS

S.K. Dhaon
(S.K.DHAON)
ACTING CHAIRMAN