

Central Administrative Tribunal
Principal Bench
.....

O.A. No. 1530/94

New Delhi, this the 28th day of July, 1995

Hon'ble Shri J.P. Sharma, Member (Judicial)
Hon'ble Shri B.K. Singh, Member (Administrative)

Shri Ladli Parshad Sharma s/o
Shri Murari Lal,
Head Ticket Collector,
Northern Railway,
Gurgaon, Bikaner Division.

C/o House No. 338, Sector 14,
Urban Estate, Gurgaon.

(By Shri B.K. Batra, Advocate)

..Applicant

Versus

Union of India through:-

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Rail Manager,
Northern Railway,
Bikaner.
3. Area Manager,
Northern Railway,
Delhi Queens Road(MG),
Delhi.

... Respondents

(By Shri R.L.Dhawan, Advocate)

ORDER (ORAL)

(delivered by Hon'ble Shri J.P. Sharma, Member (J))

The applicant is working as Head/Ticket Collector
and he has been punished with a minor penalty by the order

(5)

dated 11.2.1994 passed by the Area Manager, Northern Railway, Delhi. The appeal against the same has also been rejected by the appellate authority i.e. Additional Divisional Railway Manager, Bikaner by the order dated 11.7.1994. The applicant filed this O.A. in July, 1994 praying for the grant of the reliefs that the Memo of chargesheet dated 28/12/1993 and 4.1.1994 as well as order of punishment passed by the Area Manager dated 11.2.1994 and by the appellate authority dated 11.7.1994 be quashed.

It appears that a memo of chargesheet was served on the applicant at the time he was posted as Head Ticket Collector at Gurgaon Station in Bikaner Division, on the ground that when Area Manager inspected on 9.12.1993, he found that the earnings/^{pertaining} to the applicant for the month of September 1993 to November, 1993 was less than the target/fixed by the Senior Divisional Commercial Manager, Bikaner for Head Ticket Collectors on duty at the station. As a result, it was alleged that the applicant has violated rule 3(i), (ii) & (iv) of the Conduct Rules, 1966 for Railway Servants, as he could not achieve the target. The applicant on this minor penalty charge-sheet submitted his reply giving reasons as to how the target fixed, as aforesaid, could not be attained. It is stated that the Gurgaon Station is a District Headquarter, opposite side is totally open, only one Ticket Collector on duty manning the main gate as the arrival of trains most of/daily passengers running towards the gate on arrival of trains due to which

(b)

collection of Tickets became difficult causing high missing percentage of tickets and other conditions too which do not allow Ticket Collector on duty to reach the target fixed. His reply was not found satisfactory by the Area Manager and he passed the impugned order of punishment by the order dated 11.2.1994. The explanation furnished by the delinquent on the ground that has been considered but found unsatisfactory/his performance has been consistently poor and he is trying to seek refuge for own performance by excuses. It is decided to withhold his increment for a period of six months (non-cumulative effect). On appeal, the appellate authority concurred with the aforesaid reasons given by the disciplinary authority and it is observed that he has been rightly punished by the disciplinary authority. The appeal was, therefore, rejected.

The respondents on notice stated that the applicant was, though belonging to the Commercial Wing, placed under the control of Area Manager. The Area Manager was directed to write the A.C.R. also vide annexure-R-1. However, the photocopy filed is totally illegible and what deciphers from this illegible copy is that staff and officers belonging to all departments will report to the Area Manager and C.Rs of staff and officers will be initiated, countersigned and accepted, as the case may be, by the Area Managers. The Area Managers shall be assisted by an A.P.O. for dealing with personnel matters. The learned counsel for the respondents stated that the applicant did not achieve the target fixed by the Divisional Commercial Manager, Bikaner.

(7)

The applicant has also filed rejoinder annexing certain documents to show that the applicant has been working under the administrative control of Divisional Commercial Manager, Bikaner. The learned counsel for the applicant also filed certain extracts from the rules for Railway Manual and Labour Laws by Sh. Bhattacharyaji, 1976 Edition from page 466 to 469 to highlight the fact that the Area Manager cannot be the disciplinary authority of the applicant.

We heard the learned counsel for the parties. The learned counsel for the applicant pointed out that inefficiency of a staff cannot be said to be a misconduct unless there is a culpability attached or a stigma to the integrity of such a staff. Infact, a punishment either in a minor penalty under rule 11 or in a major penalty has to go in the career of the staff and it may be hitch and hurdle in the next promotion. It is to be seen whether the inefficiency is attributed to a person without attaching any culpability to his working or any stigma to his integrity, it cannot be said that there has been violation of rule 3 of the Conduct Rules, 1966. In this case, the applicant has given an explanation and fairly stated as to what were the reasons due to which the target fixed by the Divisional Commercial Manager at Rs. 2000/- could not be achieved. If the person was inefficient, he can be pulled up by issuing necessary

(8)

reformatory letters or warnings. It does not give rise to a misconduct which is attributed to the applicant. Thus, the very basis of issue of charge-sheet in this case is not logical, fair and also does not come within the purview, ambit of Conduct Rules, 1966. We heard patiently Shri R.L.Dhawan counsel for the respondents who supported the accusations made in the charge-sheet and argued that the target fixed has not been ^{attained} by the applicant and the explanation furnished by the applicant was found unsatisfactory. In any case if the target is fixed then it should be compared with the earlier years and if there is a falling on the part of the delinquent then it may be projected whether it is because of stigma attached to his integrity. But there is nothing in the charge-sheet itself. The contention of the learned counsel for the respondents, therefore, cannot be logically accepted. On this account only the punishment imposed on the basis of the charge-sheet, cannot be sustained.

However, going through the order of disciplinary authority, we find that disciplinary authority has not considered the explanation of the applicant in a true sense. The applicant has given certain reasons and also explained that he has been always making efforts to

(9)

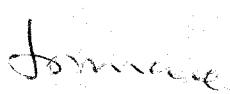
achieve the target fixed at Rs. 2000/- but, as said above, the station of Gurgaon is totally open, one Ticket Collector on duty manning the main gate as the arrival of trains, most of daily passengers running towards the main gate on arrival of trains, due to which the collection of tickets becomes difficult causing high missing percentage of tickets and other conditions too which do not allow Ticket Collector on duty to reach the target to increase the earnings by the Ticket Collector. Merely observing that the order, that the explanation is unsatisfactory is a great injustice and cannot be termed as speaking order and proper application of mind. The appellate authority also only affirmed the order passed by the disciplinary authority. Both these orders are not according to the law laid down by the Hon'ble Supreme Court in the case of Ram Chander V/s. U.O.I. reported in SLR 1986(2) page 608.

The learned counsel also raised an objection that the impugned order of punishment passed by the disciplinary authority is not the competent authority in that regard. But since we have already dealt with the matter, we do not want to further probe the contention as alleged. On one side it is alleged that the applicant has been

10

working under the Additional Divisional Commercial Manager, Bikaner while from the side of the respondents, it is said that the applicant was under the control of Area Manager of the respective division /was made incharge of the work and also empowered to write the A.C.R. Since we are reaching a finding on the first ground raised by the learned counsel for the applicant, we do not touch this point whether the disciplinary authority was competent or not. However, the applicant's counsel has filed a transfer order dated 26.8.94 whereby it is seen that he has been working under the control of Divisional Commercial Manager, Bikaner. He has also referred to the explanation in Annexure A-7 which is annexed with the application. However, considering all these facts, the present application is allowed. The punishment imposed on the applicant and the memo of charge-sheet are quashed and the increment shall not be withheld of the applicant and shall be restored. He shall also be given the consequential benefits. In the facts and circumstances, the application is disposed of accordingly, leaving the parties to bear their own costs.


(B.K.SINGH)
MEMBER (A)


(J.P.SHARMA)
MEMBER (J)

/nka/