

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 1772 of 1994

New Delhi this the 20th day of July, 1999

Hon'ble Mr. Justice D.N. Baruah, Vice Chairman
Hon'ble Mr. N. SAHU, MEMBER (A)

Tara Chand
Manager,
Canteen
Shakur Basti Printing Press (Railways)
New Delhi.

.Applicant

By Advocate Shri S.K. Gupta.

Versus

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Chief Superintendent,
Printing and Stationery,
Northern Railway Printing Press,
Shakurbasti,
Delhi.
3. Superintendent,
Printing and Stationery,
Northern Railway Printing Press,
Shakurbasti,
Delhi.
4. Secretary Canteen, ,
Printing and Stationery,
Northern Railway Printing Press,
Shakurbasti,
Delhi.
5. Enquiring Authority: Through
Superintendent,
Printing and Stationery,
Northern Railway Printing Press,
Shakurbasti,
Delhi.

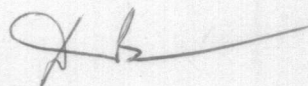
..Respondents

By Advocate Shri R.P. Aggarwal.

ORDER(ORAL)

Hon'ble Mr. Justice D.N. Baruah, Vice Chairman

In this application the applicant has
challenged Annexure A-2 order dated 29.5.91 passed by the



disciplinary authority imposing penalty of reduction of pay by one stage for a period of 2 years with cumulative effect and Annexure A-3 order dated 20.5.92 passed by the appellate authority, namely the Superintendent (Printing and Stationery) reducing the punishment of 2 years to one year and also the Annexure A-4 revisional order dated 14.8.93 confirming the appellate order.

2. Facts for the purpose of disposal of this application are as follows:-

At the relevant time, the applicant was working as Manager (Canteen) in Shakurbasti under the Northern Railway. An order of suspension order was issued in contemplation of drawal of a disciplinary proceedings. He was kept under suspension by order dated 11.10.1988, Annexure A-5. The suspension order was, however, revoked at a later stage. The disciplinary authority framed charges. The article of charges along with the statements of imputation were served on the applicant asking him to show cause why disciplinary action should not be taken against him. The applicant duly replied to the show cause notice denying the allegations. In the said reply, the applicant categorically denied the charges. The disciplinary authority not being satisfied with the reply decided to hold an enquiry on the charges. Accordingly an Enquiry Officer was appointed. During the enquiry the applicant requested for certain documents by filing an application. The Enquiry Officer, according to the applicant, being satisfied with the relevancy of those documents directed

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the disciplinary authority to furnish those documents. The documents were, however, not supplied on the ground that those were not available. As the documents were not supplied, applicant's case is, that he was handicapped in taking proper defence in the disciplinary enquiry. The Enquiry Officer on conclusion of the enquiry found him guilty of the charges and submitted a report to the disciplinary authority. Agreeing with the conclusions arrived at by the Enquiry Officer, the disciplinary authority imposed the punishment of reduction of rank for a period of 2 years with cumulative effect. Being aggrieved, the applicant preferred an appeal before the appellate authority. The appellate authority also held him guilty. However, the punishment was reduced from 2 years to one year. Still aggrieved, the applicant filed a revision petition before the revisional authority and the revisional authority by Annexure A-4 order dated 14.8.93 confirmed the order passed by the appellate authority. Hence, the present application.

3. The respondents have entered appearance and have filed written statement controverting the claim of the applicant. We have heard Shri S.K. Gupta, learned counsel for the applicant and Shri R.P. Aggarwal, learned counsel for the respondents.

4. Shri Gupta submits before us that applicant had been denied the documents and in order to substantiate his case, he wanted those documents and accordingly requested the Enquiry Officer to direct the

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disciplinary authority to furnish those documents. The Enquiry Officer, according to Mr. Gupta, finding the necessity of those documents directed the disciplinary authority to furnish the documents which was, however, not done. Mr. Gupta further submits that the respondents have avoided furnishing those documents on the ground that those were not available. This cannot be accepted. Mr. Aggarwal, the learned counsel appearing on behalf of the respondents, on the other hand, tries to justify the action by showing that those documents were not available. Mr. Aggarwal further submits that it was the duty of the applicant to show why those documents were relevant.

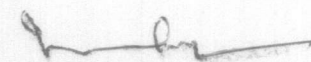
✓ 5. On the rival contentions of the parties it is to be seen whether the penalty imposed by the disciplinary and appellate authorities and confirmed by the revisional authority can sustain in law. Law in this regard is well settled. If charges are framed and a disciplinary proceeding is initiated he should be given full opportunity to defend himself and the requirement of documents is definitely of great importance. In the present case, the applicant wanted the stock register and other documents to show that there was no loss and the applicant was not at all responsible for the loss, if any. Besides, if at all there was some loss, it was not on the ground that the applicant was negligent. We feel that the applicant has every right to disprove the charges by producing documents like the stock register and other documents which were in possession of the respondents. The

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respondents simply said that those documents were not available but did not care to explain why these documents were not available. No plausible reason was given by the respondents. In view of this we find that proper opportunity of defending the case as contemplated under Rule 9 was not afforded to the applicant. This aspect was not considered by the revisional authority. At least the Annexure A-4 does not so indicate. Similar is the case with the appellate authority. In view of this, we set aside Annexure A-2, Annexure A-3 and Annexure A-4 orders.

6. Considering the facts and circumstances of the case, we make no order as to costs.



(N. Sahu)
Member (A)



(D. N. Baruah)
Vice Chairman (J)

Rakesh