

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 958 of 1986
T.A. No.

199

DATE OF DECISION 6.11.91

<u>B.P. Choudhary</u>	Petitioner
<u>Shri S.K. Bisaria</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Ors</u>	Respondent
<u>Shri ML. Verma</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J).

The Hon'ble Mr. I.K. Rasgotra, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Judgment of the Bench delivered by Hon'ble Shri
Justice Ram Pal Singh, Vice-Chairman (J).)

JUDGMENT

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act of 1985 against the respondents praying for quashing the order dated 17.12.85 passed by the respondents, reverting the applicant from the grade of Rs. 550-750 to Rs. 425-640 and reducing the salary from Rs. 675.00 to Rs. 500.00. He has also prayed for quashing the appellate order dated 17.3.86 by which his appeal was dismissed.

2. The applicant was posted at Faridabad and working as Chief Booking and Parcel Clerk in the grade of Rs. 550-750. While working as Chief Booking and Parcel Clerk, the applicant was served with a chargesheet in a departmental inquiry in which it was alleged that on 16.11.82 while he was not on duty, he himself issued a luggage ticket for taking his goat, a kid and a cycle ex-Faridabad to Mahwah against

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his F/C FP No. 423481 dated 16.8.82 available for journey from Jammu Tawi to Mahwal. He, thus, committed irregularities and misconduct by not showing the chargeable weight of 40 Kgs and freight of Rs. 38/-. He was further alleged to have booked his cycle free of charge, thus causing a loss to the Railway etc.etc.

3. The applicant submitted his reply to the memorandum of charge on 9.4.84. Thereafter, an inquiry officer was appointed and the inquiry was concluded. Thereafter, the disciplinary authority imposed a punishment of reversion on 17.12.85 reverting the applicant from the grade of Rs. 550-750 to Rs. 425-640, thus reducing the basic pay of the applicant from Rs. 675.00 to Rs. 500/-. The applicant filed an appeal on 13. 2.86 before the appellate authority which was rejected on 17.3.86. The applicant further contends that he deposited an amount of Rs. 46.00 with the respondents and thus the respondents did not suffer any pecuniary loss. He further contends that it was Raghbir Singh who was on duty and who had accepted the money. Thus, it was Raghbir Singh who was guilty and not he.

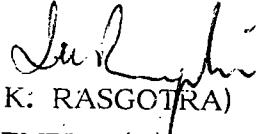
4. The main contention of the applicant is that the applicant ^{ed} has been subject to double jeopardy whereby the respondents have inflicted upon him double punishment, i.e., he has been reverted in the grade and his basic salary was reduced resulting in denial of promotion in the next higher grade. This, according to him, is against the principles of natural justice, illegal and unconstitutional.

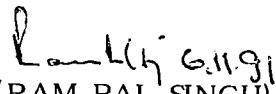
5. The respondents in their return have controverted the contentions of the applicant in the O.A. and maintain that the applicant has not suffered double jeopardy by imposition of penalty in the departmental inquiry. They further contended that the appeal was considered and rejected on merits. They further maintain that the applicant himself was guilty of the misconduct causing pecuniary loss to the railways. They further contended that the major penalty chargesheet was issued against him and from 17.12.85 he is undergoing punishment of reversion for 3 years to lower grade of Rs. 425-640. They further maintain that the applicant during the inquiry has admitted his misconduct by reply to Question No.4.

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6. This matter was expedited by the order of Hon'ble Chairman in M.P. No. 1910/89 filed by the applicant on 10.11.89. Since then, this matter was high up in the cause list. When on 1.11.91, the case was called at 3.00 P.M. neither the counsel for the applicant, Shri S.K. Bisaria, nor the counsel for the respondents, were available in the building, though sent for. This is an old case of 1986 and we cannot permit an expedited case to remain hanging as an eye sore in the cause list of the month. We, therefore, reserved the judgment. We have gone through the pleadings and documents filed by the parties and minutely examined the case.

7. The disciplinary authority in its order imposed the penalty of reduction to a lower post/grade/service and directed that the applicant be reduced with immediate effect to the lower post/grade/service in the scale of Rs. 425-640 (RS) for a period of 3 years with cumulative effect. The disciplinary authority further ordered that on restoration the period of reduction will have the effect on his seniority. This later part of the order is only a consequence of the penalty imposed of reduction to a lower post. It cannot, therefore, be said that the applicant has been punished twice for the single misconduct. Hence, the element of double jeopardy is completely absent. In the O.A. no other point worth consideration has been raised. We minutely examined the disciplinary proceedings and we could not discover any infirmity in the conduction of the departmental inquiry. In the absence of any ground in the OA - it appears that the applicant participated duly in the inquiry and availed of all the opportunities of putting up his defence to the disciplinary authority - this O.A. is without merit. Hence, it is dismissed. The parties shall bear their own costs.


(I.K. RASGOTRA)
MEMBER (A)


(RAM PAL SINGH)
VICE-CHAIRMAN (J)