

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(4)

DATE OF DECISION: 16.05.1990

Reg.No. OA-1149/86

Shri G.C. Chakarwatti Applicant.
Shri R.L. Sethi Counsel of the Applicant.
Vs.
Union of India Respondents.
Shri O.N. Moolri Counsel of the respondents.

CORAM:

Hon'ble Mr. G.Sreedharan Nair, Vice-Chairman.

Hon'ble Mr. P.C. Jain, Member.

(Judgment of the Bench delivered by Hon'ble
Mr. G.Sreedharan Nair, Vice-Chairman).

JUDGMENT

The applicant while working as Head Booking Clerk was proceeded against by the issue of memorandum of charges dated 29.7.1985. There were two imputations relating to the performance of his duties as Booking Clerk on 13.7.85 at Counter No.38. The first ~~cause~~ was that in the production of Government Cash, there was a shortage of Rs.11.50. Secondly, "He was found having an amount of Rs.76.00 as unaccounted, concealed in a fold of return journey BPT Book." The applicant denied the charge. An enquiry was conducted. The Inquiry Officer held that the ~~first~~ ^{first} imputation is not established but that "The recovery of unaccounted amount of Rs.76.00 from the return journey BPT Book kept on the top of combined ticket tube on the defendants counter" is approved." Accepting the report of the Inquiry Officer, the Disciplinary Authority by its order dated 4.7.1986 imposed against the applicant the penalty of withholding of ^{one} increment for a period of 2 years with postponing the future increments. The appeal submitted by the applicant was

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rejected by the order dated 27.8.86.

The applicant has prayed for quash^{ing} the order imposing the penalty as well as the order passed by the Appellate Authority. It is urged that the findings of guilt have been arrived at merely on ~~suspension~~ ^{suspicion} and that the Disciplinary Authority has not exercised his mind. The appellate order is assailed as cryptic and non-speaking.

In the reply filed on behalf of the respondents, it is contented that the impugned orders have been passed in accordance with law and do not require interference. There is also a plea that as the applicant has not filed a revision petition, the application is premature.

We have heard the counsel of both the parties and have perused the records.

At the time of hearing, the contention regarding the maintainability of the application on account of the non-filing of revision ~~petition~~ was not pursued by counsel of respondents. Even otherwise, since the original application has been admitted by a Bench of this Tribunal by the order dated 18.12.1986, ~~which~~ ^{it} cannot be held at this stage that it is not maintainable ~~against~~ ^{as} the applicant ~~who~~ ^{has} not filed a petition for revision.

The point that was emphasised by the counsel of the applicant was that a perusal of the enquiry report itself will establish ~~that~~ ^{that} though the second item of charge has not been approved, and as such the Disciplinary Authority should not have held the applicant guilty of the ~~such~~ ^{same} charge and imposed the penalty. Though this submission was refuted by counsel of respondents, ~~we~~ ^{we} are inclined to agree with the same.

As stated earlier, the second imputation was that the

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applicant was found having an amount of Rs.76.00 as unaccounted, concealed in a fold of return journey BPT Book, it was established before the Inquiry Officer that the said BPT Book is kept on the top of the combined ticket tube on Counter No.38 but was meant to be used by all the Booking Clerks seated in that hall. It was also established that ^{not} neither on the day of the check ^{or} on any day ^{around}, the applicant had ~~not~~ used that Book. As such from the mere fact that the amount of Rs.76.00 was found in-side that book, it cannot be reasonably ~~be~~ concluded that the amount ^{belonged} ~~is bearing~~ to the applicant, it was unaccounted and concealed by him, which is the gravamen of the imputation. It is also to be pointed out in this context that the Inquiry Officer ~~did~~ not find the truth of the imputation as alleged, but his findings was only that "The recovery of unaccounted money of Rs.76.00 from the return journey BPT Book kept on the top of combined ticket tube on the defendants counter is approved". In the face of the above, the findings of the Disciplinary Authority ~~that~~ the second imputation levelled against the applicant has been ~~approved~~ is perverse, not being based on any evidence at all.

It is on record that in the memorandum of ~~the~~ appeal submitted by the applicant, the applicant had highlighted these aspects, but the Appellate Authority by a one line order has rejected the appeal stating that " ~~The~~ charge of concealment of excess money was ~~approved~~ in the DAR Enquiry". ~~the~~ order cannot be sustained in law.

In the result, the order of the Disciplinary Authority dated 4.7.1986 as confirmed by the order of ^{the} Appellate Authority dated 22.9.86 is hereby quashed.

(P.C. JAIN)
(P.C. JAIN)
MEMBER

(G. SREEDHARAN NAIR)
(G. SREEDHARAN NAIR)
VICE-CHAIRMAN

16.5.1988