

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1829/87
T.A. No.

199

DATE OF DECISION 10.8.1990.

<u>Shri Chander Sekhar</u> <u>Shri P.T.S. Murthy</u>	Petitioner Applicant Advocate for the Petitioner(s) Applicant
Versus	
<u>Union of India through Secy.,</u> Respondent <u>Miny. of Railways & Urs.</u>	
<u>Shri Inderjit Sharma</u> Advocate for the Respondent(s)	

CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

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 ?

(Judgement of the Bench delivered by Hon'ble
Mr. D.K. Chakravorty, Member)

The applicant, who has worked as a Station Supdt. at Daya Basti, Delhi, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the impugned order dated 7/14.5.1987 conveying that the punishment on 31.12.1985 will not be cancelled or reviewed, be quashed, that the order dated 31.12.1985 whereby the penalty of withholding of increment for a period of one year was imposed on him, be quashed, and that his increment which has been withheld, be revived. He has also prayed for payment of arrears of pay and allowances.

2. The facts of the case in brief are that while serving as Station Supdt. at Daya Basti Railway Station, the applicant went to the District Medical Office for night vision test at 1500 hours on 21.5.1985. After undergoing the test, he resumed duty at 0700 hours on 23.5.1985. During his absence from the Station, the seniormost A.S.M. was looking after his work and supervising the work of the staff employed there. The T.I., Panipat, conducted an inspection of Narela Railway Station on the night of 22.5.1985, when he saw the A.S.M. on duty and three other employees who were on duty, sleeping in the premises. The applicant was served with a memorandum dated 22.8.1985 under the Railway Servants (Discipline & Appeal) Rules, 1968, wherein it was alleged that he was responsible for slack supervision in view of the irregularities noticed by the T.I., Panipat. On 6.9.85, he gave his explanation wherein it was stated that he had been relieved for night vision test during the relevant period, and that the seniormost A.S.M. was looking after the duties of the supervision of the Station. Despite the said explanation, the respondents passed the impugned order dated 31.12.1985, whereby the penalty of withholding of his increment for one year was imposed on him.

3. The applicant sent a further representation to A.D.R.M., Northern Railway, which did not yield any favourable response. Thereafter, he preferred an appeal to the respondents, to which he did not receive any reply. A review petition filed by him subsequently on 10.2.1987, was also rejected on 7/14.5.1987.

4. The applicant has stated that in the case of some other employees involved in the same inspection, the original punishment was modified and reduced. The modification of punishment of WIT for two years was reduced to three months' WIT in the case of one, Shri Swaroop Singh.

5. The respondents have stated in their counter-affidavit that the applicant must be deemed to be on duty when he went for night vision test and that he could not be absolved of the responsibility for the lapses on the part of his staff at the Station.

6. We have gone through the records of the case and have heard the learned counsel for both the parties. The applicant has relied upon the remark of T.I., Panipat, who conducted night inspection and his remarks on the appeal which read as follows:-

"That the employee was not actually available at headquarter due to attending D.M.O. Delhi for periodical Vision Test, the same fact appeared in my inspection note. Staff must have taken undue benefit of absence of S.S. From H.Q. as at all the other occasions the undersigned night inspections of Narela Staff I found no such irregularity. It is recommended to take lenient view while reviewing the case.

Sd/- J.N. Mittal, TI Panipat!

7. The respondents have not alleged any dereliction of duty on the part of the applicant while he was in position at the railway station. In our opinion, the irregularities noticed while he was not on duty and had gone for medical examination, occurred when the senior-most A.S.M. was looking after the work of the applicant.

In view of this, it would not be fair and just to penalise

the applicant for the irregularities noticed in the station. The applicant cannot also be said to have thereby committed an act of misconduct within the meaning of Rule 3 of the Railway Service (Conduct) Rules, 1966. In the light of the foregoing, we are of the view that the impugned order of punishment dated 31.12.1985, is not legally sustainable and we quash the same. The applicant would also be entitled to all consequential benefits, including arrears of pay and allowances and increments from the due date. The respondents shall comply with the above directions within a period of three months from the date of communication of this order. The parties will bear their own costs.

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(D.K. Chakravorty)
Administrative Member
10/8/1990

Carma
10/8/90
(P.K. Kartha)
Vice-Chairman (Judl.)