

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH NEW DELHI

Original Application No. 1133 of 1937

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Ms. Usha Savara, Member (A)

(By Hon'ble Mr. Justice U.C. Srivastava, VC)

The applicant was appointed as pointsman in the year 1963. His services were regularised as such in the year 1974. In the year 1976, he was promoted to the post of class-III and was appointed as Ticket Collector. According to the applicant, ~~the~~ ^{his} conduct and character of the applicant was good, that's why he was given award and given promotion. ^{Two} ~~the~~ charge-sheets ^{were} served upon the applicant and two enquiries were instituted against him on 6.8.1984 and 20.12.84 ^{same} and both the matters were referred to the enquiry officer.

The charge against the applicant was acceptance of Rs. 30/- in bribe in one case and Rs. 25 in another case. The applicant admitted demanding of Rs. 30/- in respect of a ticket from the passenger, but denied the other charge. The enquiry in respect of both the charges were held on separate dates. In one case, the applicant was said to have demanded Rs. 25/- from a passenger by threatening him penalties of Rs. 100. In another case, he accepted the legal gratification ~~of~~ passenger by allotting him birth beyond a duty. The enquiry officer submitted his report on 26.6.35 and the applicant was granted 10 days time to submit written brief and thereafter another enquiry report was submitted on 29.7.1935, which was concluded on 17.6.1935. The

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applicant requested for some more time to submit his final defence as his defence assistant was to go out of station. The enquiry officer agreed and granted 20 days time and the applicant submitted final defence on 4.7.1985. It was thereafter, the submission of the report, the disciplinary authority held in guilty and removed him from service in respect of one charge and second charge, a penalty of reversion to lower grade with immediate effect for the period of 2 years without future effect was imposed upon the applicant. The applicant filed an departmental appeal, but the appellate authority dismissed the appeal against the removal order holding that although the charge of accepting illegal gratification has not been conclusively proved, there is preponderance and circumstantial evidence to this effect. He was not on reservation duty on the day in question and it was incorrect on his part to issue the slips which smack of ulterior motive, the delinquent chooses to make admission of his own free will, now he wishes that the facts so stated should not be relied. There is supporting document that the slip was issued by him only. According to the appellate authority although the applicant was not in duty, but he did unauthorised manner and although the charge of bribery was not true, but it appears in the said findings that when the charge of the bribery was not conclusively proved, the appellate authority should have specified on which charge ~~there was acceptance of guilty and in view of which he was proceeding to accept, that the applicant should have been removed from~~ service in this case. He would not like to interfere in the ~~matter, but would like to refer back the matter to appellate authority~~ matter, but would like ~~refer back the matter to appellate authority~~ the appellate to hear and decide the ~~which was not true and in accordance with his~~ appeal taking into consideration the fact, which are on the record without any suspicion in it and giving personal hearing to the applicant and accordingly, this application is allowed.

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So far as the punishment order is concerned, the appellate order is quashed. The appellate authority is directed to hear and to decide the appeal after giving him a personal hearing, ~~on the basis of the facts~~. So far as the charge in respect of his ~~removal from service~~ is concerned, we have looked into the material on record, we do not find any ground to interfere in the same as the charge against the applicant was fully proved and the authority was competent to award this punishment and the appeal was rightly dismissed. Accordingly, this application in respect of that punishment is dismissed. Thus, the substance application is allowed only on this ground that the appellate authority shall decide the appeal in respect of the removal order. Let it be done within a period of 3 months from the date of communication of this order. With these observations, the application is disposed of. No order as to the costs.

Member (A)

Vice-Chairman

Dated: 22.12.1992.

(RKA)