

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

CCP No. 119 of 1988 in
O.A. No. 716/1988
T.A. No.

199

DATE OF DECISION 02.08.1991.

Shri Pitambar Nath Bhatia PetitionerShri D.C. Vohra Advocate for the Petitioner(s)

Versus

Shri Rajiv Dutt, Chief Cashier(JA) RespondentNorthern RailwayShri P.S. Mahendru Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

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

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha, Vice Chairman(J))

The petitioner is the applicant in OA 716 of 1988 which is pending in the Tribunal. The petitioner who is working as Senior Head Shroff, Divisional Cashier's Office, Northern Railway, has prayed for his promotion as Assistant Divisional Cashier and Divisional Cashier. The application was filed in the Tribunal on 21.4.1988. On 26.4.1988, the application was admitted and notice was issued to the respondents returnable on 25.5.1988. On 25.5.1988, the Tribunal directed the respondents to ensure that documents mentioned in the prayer for interim

relief (i.e. Answerbooks of the Written Test held on 22.2.1986 and 23.2.1986) are kept in a sealed cover and preserved so that the same may be made available to the court as and when required.

2. The pleadings in OA 716/88 are complete and the case is ripe for final hearing and disposal.

3. CCP 119 of 1988 was filed in the Tribunal on 18.7.88. Shri Rajit Dutt, the Chief Cashier, who is respondent No.5 in OA 716/88 is the sole respondents in the CCP. The allegation in the CCP is that on 2.6.1988, Shri Rajiv Dutt visited the petitioner in a "very furious, agitated and angry mood" and told him "in a very commanding and challenging tone either to get his name deleted from the array of the respondents or face the suspension" whereupon the petitioner "very politely told him about his inability to do so since the question of petitioner's career is involved". Thereupon, the petitioner was told by Shri Dutt "verbally" that he is suspended and that he should hand over charge to the Assistant Cashier which he did and he was served with the suspension order in writing on 3.6.1988(AN).

4. The petitioner has alleged that by compelling and coercing him to delete his name from the array of respondents, Shri Dutt has committed contempt since the same tantamounts to "undue interference in the administration of justice". The respondents have

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denied the above allegations in the reply filed by them.

Shri Dutt who has signed and sworn the reply affidavit has stated that he being the head of the Cash & Pay Department visited the Pay Office, Northern Railway, Baroda House, New Delhi on 2.6.88 in connection with a complaint from the Inspector of Post Office to the effect that the Petitioner was not receiving money orders on behalf of the Railway Administration. He asked the petitioner to receive money orders as per practice in vogue and orders contained in letter dated 12.12.1978 issued by the then Chief Cashier, Shri S.C. Chaturvedi. The petitioner refused to perform his duty as requested and "as such was placed under suspension" for disobedience of the orders. In the circumstances, the petitioner was asked to hand over the charge immediately to Assistant Divisional Cashier, Northern Railway, Baroda House, New Delhi, Shri Govind Lal. The suspension orders were also issued on 2.6.88 itself but was received by the petitioner on 3.6.1988.

5. The respondents have also stated that the memorandum for major penalty dated 2.9.1988 has already been issued to the petitioner with specific charges of his negligence, disobedience and careless working.

6. We have carefully gone through the records and have heard the learned counsel of both parties. The learned counsel of the petitioner drew our attention to an affidavit filed by one Shri Rajesh Kumar Jain wherein he has corroborated the version given by the petitioner. We have been informed that Shri Jain is not a railway employee but a visitor who happened to be in the office at the time of visit of Shri Dutt. The learned counsel of the respondents drew our attention to the averment in the reply-affidavit that at the time of the visit of Shri Dutt to the aforesaid office, Shri Gurbachan Singh, Assistant Chief Cashier(Receipt), Northern Railway, was also present. He also made a complaint to Shri Dutt vide his letter dated 5.7.88 regarding the ^{disobedience} of the orders by the applicant.

7. The petitioner has alleged in OA 716/88 that the officers concerned including Shri Dutt are liable for disciplinary action in terms of para 228 of the Indian Railway Establishment Manual which states that "cases of erroneous promotion/appointment in a substantive or officiating capacity should be viewed with serious concern, and suitable disciplinary action should be taken against the officer concerned and staff responsible for such erroneous promotion or appointment".

8. The petitioner has not sought ^{any relief} against the individual respondents in OA 716/88 and rightly so. The omissions and commissions are of the Union of India and the relief is to be granted by the Union of India, in case the applicant succeeds in the pending litigation. The application is also being opposed on behalf of the Union of India.

9. In view of the above, we are not impressed by the contention of the applicant that Shri Dutt compelled and coerced the petitioner to delete his name from the array of the respondents, due to fear of disciplinary action being initiated against him under para 228 of the Indian Railway Establishment Manual.

10. There is, however, another aspect of the matter. The

visit of Shri Dutt to the office where the petitioner was posted is an admitted fact. There is also no dispute that the order of suspension was issued on 2.6.1988, i.e., the date of the visit. We leave open the question whether in the facts and circumstances of the case, the order of suspension issued on 2.6.1988 and the charge-sheet dated 2.9.1988 are legal and valid, as the same are not in issue in the main application before us.

11. In the light of the above, there are no sufficient grounds to initiate contempt proceedings against Shri Dutt. The CCP is dismissed and the notice of contempt is discharged with the above observations.

B.N. Dhoondiyal
(B.N. DHOUNDIYAL) 2/8/89
MEMBER (A)

P.K. Kartha
2/8/89
(P.K. KARTHA)
VICE CHAIRMAN (J)