

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2274/1990

New Delhi, this 3rd day of January, 1995

Shri N.V.Krishnan, VC(A)  
Dr. A. Vedavalli, Member(J)

Shri Hari Kishan Sharma  
s/o Shri R.D. Sharma  
E-8B, North Rly Colony  
Hapur Jn, Dt. Chaziabad .. Applicant

By Shri Malik B.D. Thareja, Advocate

versus

Union of India, through

1. The General Manager  
Northern Railway  
Baroda House, New Delhi
2. Divisional Railway Manager  
Northern Railway  
New Delhi .. Respondents

By Shri Romesh Gautam, Advocate

ORDER(oral)

By Shri N.V.Krishnan, Hon'ble VC(A)

The applicant, while working with the second respondent i.e. Divisional Railway Manager, Northern Railway, Moradabad, was issued <sup>u</sup> ~~with~~ <sup>ke</sup> Annexure A-2 Memorandum dated 20.9.84 intimating him about the proposal to take action against him under Rule 11 of the Discipline & Appeal Rules, 1968 for imposing a minor penalty on him. A statement of imputation was sent to him alongwith this memorandum.

2. The applicant, vide Annexure A-3 had sent a reply, in which he stated that the charges are not specific and clear as required under rule (6)(i and ii) of Rule 9 of D&AR, 1968. It appears that the respondents did not

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receive this reply and accordingly they reminded him on 7.5.85 (Annexure A-5) to furnish his reply. The applicant sent his reply thereto on 15.5.85 (Annexure A-6) giving, in a summary form, what he had mentioned in his Annexure A-3 reply dated 30.9.84.

3. Thereupon, Annexure A-1 order was passed imposing upon him the penalty of withholding his next increment which was due on 1.2.86 for a period of three years without postponing the future increment. The applicant states that an appeal was filed on 10.3.86 (Annexure A-7) which has not been disposed of till now.

4. The respondents have filed their reply contesting these claims. It is stated that as no appeal has been received from the applicant, the review application dated 19.4.89 was treated as an appeal by the disciplinary authority and a decision on the same was taken by the appellate authority, who rejected it. A copy of the revision petition has been filed by the respondents as A Annexure R-3.

5. In so far as the main ground of challenge is concerned, the learned counsel for the applicant states that the statement of imputation is vague and unspecific. The statement of imputation reads as follows:

"Shri H.K. Sharma while working as IOW/SPL/CM has failed devotion to duty in as much as during the course of discussion on 16.2.84 with AEN/CH he has used unparliamentary language in presence of Shri Bhatia IWO/III/CH."

6. We have heard the learned counsel for the respondents in this behalf. He submits that sufficient details are available in the statement of imputation which states that there had been failure of devotion to duty.

7. We have considered this matter. Rule 11(i)(a) requires that, for the purpose of imposing minor penalty, the railway servant concerned should be informed of the imputation of misconduct or mis-behaviour on which it is proposed to take action and given a reasonable opportunity. We have considered whether the statement of imputation reproduced above is specific or not. In our view, it is totally lacking in details. For example, it is not stated as to how and under what circumstances the applicant was called before the AEN(CH) for discussion when the alleged use of unparliamentary language is stated to have been made by the applicant. It is also not known what was the nature of the conversation and what kind of unparliamentary language was used by the applicant and in what context. These are the important points which ought to have been furnished in order to enable the applicant to make a proper representation against the proposed action.

8. That apart, we also notice that the decision of the disciplinary authority in his impugned order dated 29.1.86 has not discussed in greater detail as to what the imputation was, even though the applicant has sought for clarification regarding the statement of imputation.

9. In the circumstances, we find that the charge is extremely vague and therefore the penalty on the applicant can not be sustained on that ground.

10. We also notice from the order dated 2.7.92 that the applicant has prayed in an MP that the respondents should be directed to produce the order of the appellate authority relating to the appeal treating the revision as an appeal. It has been stated by the learned counsel for the respondents that the appellate order is not readily available, as mentioned in para 4 of the reply.

11. In the circumstances, we quash the impugned order dated 29.1.86 (Annexure A-1) as well as all the other orders that might have been passed by the appellate authority or the revision authority rejecting the prayer made by the applicant in this regard. We direct the second respondent to allow the applicant the increment due on 1.3.86, raising his pay from Rs.640 to Rs.660 which was stopped by the impugned order dated 29.1.86 and grant him all the consequential benefits in the matter of grant of arrears due to the applicant, within a period of three months from the date of receipt of this order..

*A. Vedavalli*

(Dr. A. Vedavalli)  
Member (J)  
3.1.95

*N.V. Krishnan*  
3.1.95

(N.V. Krishnan)  
Vice-Chairman(A)  
3.1.95

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