

36

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.2029/2004

New Delhi, this the 14th day of May, 2007

**HON'BLE SH. L.K.JOSHI, VICE CHAIRMAN (A)
HON'BLE SH. MUKESH KUMAR GUPTA, MEMBER (J)**

Jagjit Singh,
S/o Sardar Late Sh. Tara Singh,
R/o 20, Bharat Nagar,
Delhi-52

....Applicant

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India, through
The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Chief Administrative Officer/Const.,
Northern Railway, Kashmere Gate,
Delhi-6
3. The F & C.A.O./Const.,
Northern Railway, Kashmere Gate,
Delhi-6
4. The Dy. C. Accounts Officer/Const.,
Northern Railway, Kashmere Gate,
Delhi-6

....Respondents

(By Advocate: Shri V.S.R. Krishna)

ORDER (ORAL)

Hon'ble Sh. L.K.Joshi, Vice Chairman (A)

In this O.A., the Applicant has impugned the enquiry officer's report dated 25.02.2000, order of the disciplinary authority dated 09.07.2001, order of the appellate authority dated 19.10.2001 and order of the revisionary authority dated 27.06.2003. The Applicant has been finally awarded the penalty of reduction to lower grade of Rs.5000-8000/- for four years and fixed at the equivalent pay in the scale, which he was drawing at the time of his promotion to Section Officer.

This is with further direction that Shri Jagjit Singh should be placed again in the cadre of Section Officer in the scale of Rs.5500-9000/- after lapse of four years

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and should draw pay at the same rate as drawing prior to the reversion to the lower grade. The charge against Shri Jagjit Singh is as follows :

"Shri Jagjit Singh while working as Accounts Assistant in Traffic Accounts Office /Northern Railway, Delhi Kishanganj, Delhi during the year 1988 failed to maintain absolute integrity and acted in a manner unbecoming of a Railway Servant in as much as :-

ARTICLE - I

That Shri Jagjit Singh appeared in the Appendix III-A (IREM) Examination, 1988 and adopted unfair means to get his name placed in the list of successful candidates for his further promotion to the rank of Section Officer (Accounts).

Thus, by his above acts of omission and commission he contravened Rule 3 (1) (i) & (iii) of Railway Services (Conduct) Rules, 1966."

2. Major penalty proceedings were started against the Applicant on the basis of the above charge. The enquiry officer in her report dated 25.02.2000 held as follows :

"I accordingly conclude that the single article of charge as contained in the Memorandum of Charge-sheet against the Charged Officer stands fully proved."

3. Thereafter the penalty was imposed on the Applicant by the disciplinary authority, appellate authority and the revisionary authority. This case is one of the cases in which identical charges have been framed against 6-7 persons for the same examination in the same year. These are totally interconnected. The cases include O.A. No.622/2003 (Jagan Lal Koli v. Union of India and others) decided on 04.03.2004, O.A. No.818/2001 (Sandeep Kumar v. Union of India) decided on 30.07.2002, O.A. No.1153/2004 (Ashok Kumar v. Union of India and others) decided on 25.05.2005 and O.A. No.1964/2005 (M.K. Bansal v. Union of India and others) decided on 17.05.2007.

4. The facts, which are common in all the cases, are briefly that the Applicant while working as Accounts Assistant, Northern Railway appeared in Appendix III-A (IREM) Examination, 1988. Allegedly, the scrutiny of Applicant's answer sheets revealed that his answer books in some of the subjects were tallying word by word with the answer books of some papers of Ranbir Singh, Ashok Kumar, M.K. Bansal, Jagan Lal Koli etc. The examination was held in the year 1988 and

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all the Applicants cleared the examination. The departmental enquiry was started in 1994 against all of them. The enquiry officer in all the cases was the same and the orders are also identical. It is interesting to note that the charges against the Applicant and other officials are that they have written identical answers to many of the questions in some subjects and the charges against them and the enquiry report are also identical.

5. The enquiry officer held as follows in the instant case as also in other cases:

"A careful perusal of the opinion as respects the tampering/substitution in the answer sheets of the Charged Officer shows a planned scheme to substitute answer sheets and gain undeserved mileage in favour of the charged officer. It is worth mentioning that in Court cases the Charge is required to be proved beyond any doubt wherein departmental enquiry, it depends upon the doctrine of preponderance of probabilities.

As regards the doubt regarding the timing and place of tampering of the answer sheets it is not within the purview of the Inquiry Officer to ascertain the same, but from an overall analysis of the entire evidence on record, it is found that such a scheme as the present one would have needed the actual connivance or, at least gross negligence, on the part of some of the officials who were in charge of the answer-sheets at the relevant time. But this is an aspect which has to be considered in detail by the appropriate authorities to evolve a fool-proof system for the security such examination papers.

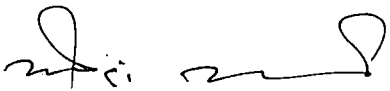
The inevitable conclusion that emerges from all the evidence on record is that the charged officer has secured undue advantage in the matter of his candidature in the said examination by adopting clearly unfair means so as to get his name placed in the list of successful candidates in the examination and secure promotion to the post of Section Officer (Accounts) in contravention of Rule 3 (1) (i) & (iii) of Railway Service (Conduct) Rules, 1966."

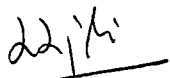
6. Since the facts of the cases in the aforesaid OAs and the instant case are identical and the charges are also identical, we would like to reiterate our conclusion in the past cases, in respect of the instant case also.

7. On the basis of above discussion, it is held, therefore, that the orders dated 25.02.2000, 09.07.2001, 19.10.2001 and 27.06.2003 are based on surmise, arbitrary and irregular and cannot be sustained. These orders are accordingly quashed. The O.A. is allowed with all consequential benefits which

22/11

should accrue within three months of the certified copies being made available to the Respondents. No costs.


(MUKESH KUMAR GUPTA)
Member (J)


(L.K. JOSHI)
Vice Chairman (A)

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