

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

O.A.No.1162/92

Shri Jai Pal Singh .. Applicant

Vs.

U.C.I. .. Respondents

Present: Shri R.K.Balan for the Applicant and
Shri I.C. Sudhir for the Respondents

We have listened to the submissions made by the 1d. counsels for the Applicant and the respondents in this case. The applicant, who has been working as Parcel Clerk in the Northern Rly., has challenged the punishment order dated 5.3.90 (Ann.1) on the grounds that the disciplinary authority has failed to supply a copy of the preliminary enquiry report, that he did not apply his mind and that punishment order is non-speaking and that the charges are devoid of any evidence. The facts of the case can be summarised as follows:

2. On 21.11.89, a charge ^{memo} was issued to the applicant which reads as follows:

"Enquiry made revealed at DLI/P found that the consignment in question was correctly unloaded at DLI on 9.11.86 from 34 DN by Shri Phanka Ram PC who further handed over the consignment to this relief Mr, Rameshwar Mizra subsequently the consignment was made over to Shri Jai Pal Singh who failed to make over the same to any PC.

Hence for negligence and careless work Shri Jai Pal Singh PC/DL is held responsible for the loss and claim of Rs.22,000/- thus contravened rule No.3(1)(ii)(iii) of Railway Servant Conduct Rule"

A copy of the charge mo is available at the reverse of Annexure R-1. The charge ^{memo} dt. 21.11.89 calls upon the applicant to make a representation against the charge. According to the respondents, which is not denied by the 1d. counsel for the applicant, the applicant made a representation on 4.1.90 in his defence. It is

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admitted by the 1d. counsel for the applicant that he had not availed the time limit of 45 days to appeal against the impugned order dated 5.3.90 but had filed a review petition (Annexure 4) which was followed another review petition (Annexure 5). In the meantime, a considerable amount of recovery from the total of Rs.11,000/- has been effected.

The above facts ^{are} not denied by the 1d. counsel for the respondents but he says that contrary to the averments made by the 1d. counsel for the applicant, the respondents have rejected the review petition. He has not however produced any documentary proof to support such disposal of the review petition.

Be that as it may, having heard both the 1d. counsels and gone through the impugned order at Annexure I, we are convinced that the disciplinary authority has not in any manner whatsoever discharged his judicial responsibility of passing a speaking and ~~wish~~ ^{and} ~~wish~~ order of imposing the recovery of Rs.11,000 from the applicant. The impugned order dated 5.3.90 reads as follows "With reference to your reply to this office memorandum of even number dated 21.11.89, debit Rs.11,000/- (Rs. eleven thousand only). The punishment of magnitude of recovery of Rs.11,000/- from the applicant has been imposed in such a cavalier manner that we cannot by any means countenance such an order.

Even though we are not impressed by the contention of the 1d. counsel for the applicant that he was not served with a copy of the preliminary enquiry report prior to the charged memo of the disciplinary proceedings, nonetheless we are convinced that ex-facte the impugned order of punishment cannot be sustained. It is neither speaking nor does it indicate whether the disciplinary authority has applied his mind on the various points raised by the applicant in his defense.

In the above light, we allow this application and set aside the impugned order at Annexure I as also any order



of review, if passed.

We conclude that the respondents would be at liberty to pass a fresh well-reasoned speaking order after giving a fresh opportunity to the applicant to defend himself. The petition is allowed with the above remarks with no order as to costs.

W.C. Roy
(W.C. Roy)
Member (J)
10.2.93

S.P. Mukerji
(S.P. Mukerji)
Vice-Chairman (A)
10.2.93