

Central Administrative Tribunal

Principal Bench

O.A.No.1420/93

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 23<sup>rd</sup> day of July, 1999

Sobh Nath  
s/o Shri Anglu Ram  
working as Lineman  
in the Office of COC-VII(N)  
MTNL, New Delhi.  
r/o House No.451/25  
D Block, J.J.Colony  
Raghubir Nagar  
New Delhi - 27.

... Applicant

(By Shri B.K.Aggarwal, Advocate)

Vs.

1. Union of India through  
Adviser (Human Resources Development)  
Department of Telecommunications  
Ministry of Communications  
New Delhi - 10 001.
2. The Chief General Manager (Telecom)  
Northern Region  
Kidwai Bhawan  
New Delhi.
3. Assistant General Manager(A)  
Office of the General Manager  
(Maintenance)  
Northern Telecom Region  
Kidwai Bhawan  
New Delhi.

.... Respondents

(By Shri V.K.Rao, Advocate)

O R D E R

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant while working as a Lineman at Faridabad in the office of Delhi Telephones under SDOP-I, was served a charge sheet dated 11.7.1983 on the following allegations:

1. That the said Sh. Sobh Nath while functioning as LM under SDOP-I, FBD during the period of March, 1983 abetted in crime of Physical assault made

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on

upon Sh. D.C.Kalra, SDOP-I, FBD by Sh. Lakhi Ram another lineman under SDOP-I FBD on 3.3.1983 at about 9.45 hrs. by instigating Sh. Lakhi Ram & obstructing the path of Sh. D.C.Kalra, SDOP-I when he was entering the gate of SDO Phones, FBD office for official duties.

2. That the said Sh. Sobh Nath was also functioning as one of the Union Leaders in Faridabad Sub-Divisions.
3. That on 2.3.1983 the said Sh. Sobh Nath had misbehaved, abused and threatened Sh.D.C.Kalra, SDOP-I regarding the issue of transfer of two Daily Rated Mazdoors from one Muster Roll Holder to another Muster Roll Holder.
4. That on 3.3.1983 at the start of office hours (approx.0930 hrs.) the said Sh. Sobh Nath alongwith his other union colleagues namely Tiwari, Moti Lal and Others had assembled on or around the main gate of SDOP office FBD.
5. At about 9.45 hrs. when Sh. D.C.Kalra, SDOP-I was entering into his office, the said Sh. Sobh Nath abetted in crime of physical assault made upon Sh.D.C.Kalra, SDOP-I FBD by instigating Sh.Lakhi Ram another LM under SDOP-I hit many times Sh.Kalra, SDOP-I with Lathi. On being beaten by Shri Lakhi Ram on the instigation of Sh.Sobh Nath, Sh. D.C.Kalra was injured and his injuries were so serious that he had to be hospitalised immediately in Badshan Khan Hospital, FBD.

2. On the findings of departmental enquiry, the Enquiry Officer has held that the following charges were fully proved:

1. The charge of abetting into offence of Physical assault.
2. The charge of obstructing the path of Sh. D.C.Kalra, the then SDOP-I, Faridabad.

The charge of use of abusive language by Sh.Sobh Nath, Lineman is not proved."

3. The disciplinary authority thereafter accepted the Enquiry Officer's report and imposed the penalty of stoppage of next increment for a period of three years with cumulative effect. The applicant filed an appeal which was also dismissed. On that he filed another appeal to the next higher authority which was also dismissed. Aggrieved by the orders of the disciplinary

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authority, appellate authority and revisional authority, the applicant has now filed this OA.

4. We have heard the counsel. Shri B.K.Aggarwal, appearing for the applicant mainly raised three points before us. Firstly, he contended that the respondents had at no stage provided to the applicant the report of the Enquiry Officer. This had prejudiced the case of the applicant inasmuch he had not been able to make a proper representation either to the disciplinary authority or to the appellate authority. Secondly, he submitted that it was a case of no evidence. Thirdly and finally, he pointed out that the order of the appellate authority was summary in nature and non-speaking which exhibited non-application of mind. All these grounds were resisted by Shri V.K.Rao, learned counsel for the respondents.

5. In so far as the first contention of the applicant is concerned, Shri B.K.Aggarwal, learned counsel fairly conceded that since the order of the disciplinary authority was dated 8..1988 and the appellate authority's order was of 2.6.1989 he could not takes support from the order of the Supreme Court in Union of India & Others Vs. Mohd. Ramzan Khan & Other, JT 1990(4) SC 456. As far as the second ground of no evidence is concerned we have gone through the enquiry report which has been produced before us by the respondents. In regard to the contention of the learned counsel for the applicant that no witness has deposed that the applicant had in any way abetted one of his colleagues, Shri Lakhi Ram to attack Shri

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D.C.Kalra, SDOP-I, we find that the Enquiry Officer has found that the charge is proved both on direct as well as circumstantial evidence. The main evidence is that of one Miss A.P.Verma, PW-16. She has testified that her room was attached to the SDOP Office. She had heard the voices of applicant therein present along with two others, Shri Brij Lal and Bhagirath who were aggrieved by their transfer, in the room of the SDOP. In regard to the incident at the gate, there is evidence to show that the applicant was present. It was <sup>argued</sup> ~~concluded~~ before us that mere presence of the applicant either in the room of SDOP, Shri Kalra or later at the gate along with 50 others ~~does~~ not mean that he instigated or abetted the beating of Shri Kalra. The learned counsel for the applicant further pointed out that even Shri Lakhi Ram the main accused was prosecuted in a Court of Law but was acquitted. In view of this it could not be held that there was anything to connect the applicant with the attack on Shri Kalra.

6. It is settled law that the Tribunal will not reappreciate the evidence in disciplinary proceedings. The scope of interference by the Tribunal is limited only to ensure that the enquiry held is in accordance with Rules and principles of natural justice. The Tribunal also cannot interfere with the penalty if the conclusion of the enquiry officer or the competent authority is based on some evidence. In this case we are called upon to judge whether there was at all some evidence against the applicant. On that touch stone we cannot conclude that there was nothing to connect the applicant with the attack of Shri Kalra. There is

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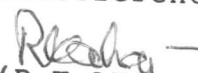
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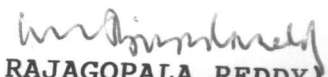
evidence that the applicant had as a Union leader taken Shri <sup>Brij Lal</sup> ~~Lakhi Ram~~ to Shri Kalra and PW-16 stated in evidence that she had heard Shri Kalra shouting that <sup>Brij Lal</sup> ~~Lakhi Ram~~ wanted to attack him. There is also evidence that applicant was present at the gate when one of his Union office bearer/colleague, Shri Lakhi Ram attacked Shri Kalra. It cannot therefore be said that there was no evidence whatsoever to make out a prima-facie case that the applicant had abetted the attack on Shri Kalra. Whether such evidence was sufficient or not is an entirely different matter and an aspect which is beyond the jurisdiction of the Tribunal to assess.

7. We therefore do not agree with the learned counsel for the applicant that there was no evidence at all against the applicant.

8. In regard to the last point, namely, that the order of the appellate authority was non-speaking and exhibited lack of application of mind, we find that though the order is brief it cannot be read as non-speaking. The points raised by the applicant in his appeal were dealt with item wise. The appellate authority is not required to make a detailed analysis of the case and produce a lengthy and comprehensive order going over the same ground which the disciplinary authority has already traversed. It was sufficient in our view for the appellate authority to answer the points on which the applicant had challenged the order of the disciplinary authority. This was duly done.

In the result, ~~as we~~ find no ground for interference, the OA is dismissed. No costs.

  
(R.K. AHOOJA)  
Member (A)

  
(V. RAJAGOPALA REDDY)  
Vice-Chairman (J)