

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1326 of 1996

Allahabad this the 15th day of Sept. 1997

Hon'ble Dr. R.K. Saxena, Member (J)
Hon'ble Mr. D.S. Baweja, Member (A)

Brij Behari Srivastava S/o Late N.P. Srivastava, Senior Clerk in the office of Sr. Divl. Electrical Engineer (General) Divl. Rly. Manager Office, Allahabad.

Applicant.

By Advocate Sri K. S. Saxena.

Versus

1. The Union of India (through General Manager, Northern Railway, Baroda House, New Delhi).
2. The Divisional Railway Manager, Northern Railway, Allahabad.
3. The Senior Divl. Electrical Engineer(G), Northern Railway, D.R.M. Office, Allahabad.

Respondents

Advocate Sri S.K. Jaiswal

ORDER

By Hon'ble Dr. R.K. Saxena, Judicial Member

The applicant-Brij Behari Srivastava seeks quashment of the order dated 26/9/96 whereby the recovery is directed to be made in 36 instalments from him.

2. Briefly stated the facts of the case are that the applicant who was posted as Senior Clerk in Electrical General Services and was also dealing with the stores, was absent on 13.6.1988 without any information and, thus, the store work was obstructed. It is also contended on 09/5/1988 a joint checking of the store was conducted and some of the material was found short and some in excess. The applicant

was served with the charge-sheet dated 05-6/10-1988 but no reply was given and, therefore, the Inquiry Officer was appointed. He submitted report holding the applicant guilty of charge no.1 which dealt with the shortage or excess of the items in the store. The charge no.2 with regard to his absence on 13.6.1988 was not found established. The disciplinary authority agreed with the Inquiry Officer and recorded the order of punishment (annexure A-1) whereby the applicant was held responsible for the shortage of material and the cost was ordered to be recovered from his pay in 36 instalments. The said cost was worked out as Rs.16,648-76.

3. The applicant had preferred an appeal against the said order on 28.10.1996 and had also ^{prayed} for stay of recovery but it appears that no action was taken by the appellate authority, ^{Hence} this O.A. was preferred on 26.11.1996, with the relief already mentioned.

4. The respondents have filed the counter-affidavit and averred that the applicant was responsible for maintaining the ground balance of the store in accordance with the book balance. It is contended that on joint checking which was done on 09/5/1988, shortage of some items and in other items excess of them, was discovered. The contention of the applicant that another joint checking was done on 30/5/1988, is denied. The order of punishment has been justified.

5. The applicant filed rejoinder-affidavit re-asserting the facts which were mentioned in the O.A.

6. This case was taken up for final hearing on 12.8.1997 when Sri K.S. Saxena, learned counsel for the

:: 3 ::

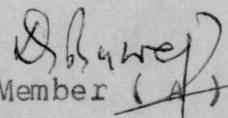
applicant was present but none had appeared for the respondents. Because the stay was operating, we heard the learned counsel for the applicant and judgment was reserved.

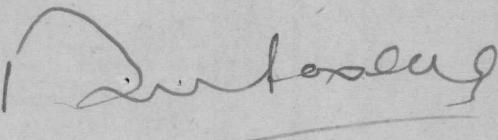
7. There is no dispute that the applicant was working as Senior-Clerk but at the same time he was looking after the Store. The shortage of some items was detected in the Store on 09/5/1988 when Sri S.L.Mahajan who was over all incharge of the Store, was handing over the charge and his successor was taking over the same. The applicant had taken the plea that 2% of shortage should be omitted according to the store Code and the possibility of wrong placement was also ² ~~required to be considered~~ contended. He did not hold Sri S.L. Mahajan responsible for any of the matters. It is pointed out that on 30/5/1988, joint checking was again done and the ground balance of items was found in accordance with the balance in the book. This is the contention of the applicant only, while this fact has been denied by the respondents. It is specifically mentioned that no other joint checking was done on 30/5/1988. The Inquiry Officer referred to the statement of Sri S.K.Srivastava, the incoming officer who denied the joint checking on 30/5/1988 in his presence. What Sri Srivastava had stated, was that only T and P ⁸ ~~ledgers~~ were signed by him. According to his version, the items were not checked because the responsibilities ⁸ of the Store ~~was~~ of the Store Clerk. Thus, it is clear that no re-checking was done on 30/5/1988. The result, therefore, is that the contention of the applicant that ground balance tallied with the book balance on 30/5/1988 does not find support.

:: 4 ::

8. It is very interesting to note that the some items were found in the store ~~in~~ short and some in excess. It is indicative of the fact that the maintenance of the store was not proper and the store Clerk was not vigilant about the discharge of his duties. Anyway, we do not find any illegality in the inquiry. The responsibility of shortage or otherwise of the store cannot be shifted to anybody-else. The Inquiry Officer held charge no.1 proved against the applicant. The said opinion cannot be stated to be perverse or not based on evidence. Agreeing with the said opinion of the Inquiry Officer, the disciplinary authority passed the impugned order of recovery of ~~the~~ value of items which were found short.

9. In our opinion, there is absolutely no illegality or irregularity in the order and thus, the O.A. stands dismissed. The interim order which was granted on 29.11.1996 stands vacated. No order as to costs.


Member (A)


Member (J)

/M.M./