

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 20th day of February, 2003.

Original Application No. 252 of 1996.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.

Hon'ble Maj. Gen. K.K. Srivastava, Member- A.

K.C. Gudhenia a/a 61 years S/o Sri Parma Nand Gudhenia  
R/o 1520, Anta Pada, Mathura (U.P.).

.....Applicant

Counsel for the applicant :- Sri R.K. Nigam

V E R S U S

1. Union of India through the General Manager,  
Central Railway, Bombay VT.
2. Chief Personnel Officer, Central Railway,  
G.M's Office, Bombay VT.
3. Divisional Railway Manager, Central Railway,  
Jhansi.
4. Addl. Divisional Railway Manager (T) (Now ADRM/II),  
Central Railway, Jhansi.
5. Sr. Divisional Personnel Officer, Central Railway,  
D.R.M's Office, Jhansi.

.....Respondents

Counsel for the respondents :- Sri G.P. Agrawal

O R D E R (oral)

(By Hon'ble Mr. Justice R.R.K Trivedi, V.C.)

By this O.A under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed to quash the order dated 30.01.1992 (annexure A- 1) by which the disciplinary authority imposed the penalty of reduction to a lower post/grade of Sr. Clerk in the grade of Rs. 1200-2040 (RPS) for a period up-to 31.12.1992 i.e. date of retirement of the applicant from the date of the order.



His pay was fixed at Rs. 1500/- per month. This order was passed on conclusion of disciplinary proceedings. The charge against the applicant was that on 09.04.1990 he alongwith several other persons detained Sri N.P. Agrawal, D.S.T.E, Mathura while he was going from his residence to Office at 0840 hrs and abused and ~~hit~~ <sup>beat him</sup> which caused serious injury to him. The order of disciplinary authority was challenged in appeal. In appeal, partial relief was granted to the applicant and his pay was fixed at Rs. 1560/-. The remaining part of the punishment was maintained. Thereafter, the applicant filed revision. In revision, the following order was passed :-

"As regards the quantum of punishment, I have to observe that it could not be directly proved that Shri Gudhenia himself manhandled and assaulted Shri N.P. Agrawal. I also note that Shri Gudhenia's services were commended in the last 5 years on 01.10.1987, 24.08.1988, 01.06.1989, and 07.06.1991. Bearing in mind these facts, only the period of punishment should be modified to 6 months from the date it was made effective instead of making it effective till date of retirement of Shri Gudhenia. Accordingly, it is decided that the punishment of reduction to the post of Sr. Clerk Grade Rs. 1200-2040(RPS), already imposed on Shri Gudhenia stands but will be effective for a period of six months only. Pay during reduction period will be same as decided by Appellate Authority viz. Rs. 1560/-."

2. Sri R.K. Nigam, learned counsel for the applicant has submitted that the applicant was also tried in Criminal Court for the aforesaid offence in Criminal Case No.29/1993 in Court of IVth Additional Chief Judicial Magistrate, Mathura and the applicant and /coaccused were

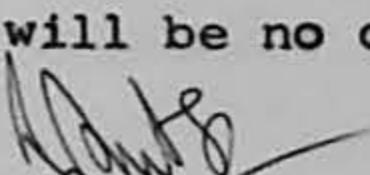
acquitted of the charge of Section 143/323/504/506 I.P.C. Learned counsel for the applicant submitted that on basis of the aforesaid judgment, applicant filed the representation before the respondents and prayed for modification of the punishment orders. The representation was however, rejected by the impugned order dated 30.07.1995 (annexure- IV). Learned counsel has submitted that the representation has been illegally rejected without considering the circular of the Railway Board dated 07.06.1995 which required that in case of acquittal from the Criminal Court, the departmental punishment should be reviewed.

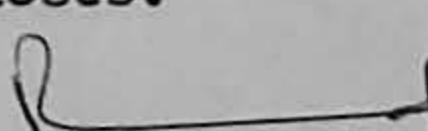
3. Sri G.P. Agrawal, learned counsel for the respondents on the other hand submitted that applicant was guilty of serious misconduct of abusing and assaulting ~~of~~ his superior officer and the punishment awarded is justified and no interference is required.

4. We have considered the submissions of learned counsel for the parties. It is not disputed that the applicant has already retired from service in 1992 itself. The punishment was awarded for serious misconduct of ~~beating~~ ~~his~~ his superior officer who suffered serious injuries. The Criminal Court has simply acquitted the applicant and other coaccused on the ground that prosecution failed to adduce any evidence to prove the charge, whereas the orders passed by the disciplinary authority are based on evidence/material on record. In the circumstances, we do not find any good ground for interference. The punishment awarded is commensurate to the charges which have been found proved against the applicant. The O.A is accordingly dismissed.

5. There will be no order as to costs.

/Anand/

  
Member- A.

  
Vice-Chairman.