

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 6th day of February, 2002.

Original Application No.877 of 1996.

CORAM :-

Hon'ble Mr. Rafiuddin, J.M.

Hon'ble Mr. CS Chadha, A.M.

Jeet Narain

Son of Shri Mata Charan

Resident of Qr.No.RB II/116-B,

Railway Colony, Rani Laxmi Nagar, Jhansi.

(Sri RK Nigam, Advocate)

..... .Applicant

Versus

1. Union of India through Financial Controller and Chief Accounts Officer, Central Railway, Mumbai CST.
2. Sr. Divisional Accounts Officer, Central Railway, Jhansi.

(Sri GP Agrawal, Advocate)

..... .Respondents

O R D E R (o_r_a_1)

By Hon'ble Mr. Rafiuddin, J.M.

The applicant while working as Accounts Assistant under Senior Divisional Accounts Officer, Central Railway, Jhansi was served with a charge sheet for remaining unauthorisedly absent from office during the period from 6-6-1994 to 25-8-1994. The applicant submitted his written statement. It appears that the Inquiry Officer submitted his report on 17-4-1994 (Annexure-A-4). The disciplinary authority, namely, the Senior Divisional Accounts Officer, Central Railway, Jhansi (Respondent no.2) after considering the enquiry report passed the

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punishment order dated 23-5-1995. The applicant was compulsorily retired from service vide order dated 23-05-1995 (Annexure-A-5). The applicant submitted his Appeal to the Appellate Authority, namely, ^{Ru} Financial Controller and Chief Accounts Officer, ^{who} modified the punishment order by imposing the penalty of reduction in rank from the scale of Rs.1400-2600 to the grade of Rs.1200-2300. The applicant by means of this OA has challenged the validity of the punishment order as well as the Appellate order.

2. It is stated that no fulpledged enquiry was conducted by the Inquiry Officer and the Inquiry Officer recorded the statement of the applicant straightway without examining other witnesses. Thus, the course adopted by the Inquiry Officer is illegal and the impugned orders ^{have} been passed in violation of the principles of natural justice and are liable to be quashed.

3. We have heard counsel for the parties and perused the record carefully.

4. We find from the perusal of record that no irregularity has been committed by the Inquiry Officer while conducting the enquiry against the applicant. It appears that the applicant himself admitted his guilt before the Inquiry Officer. The Inquiry Officer has prepared the enquiry report after considering the reply submitted by the applicant on 22-9-1994 and 9-5-1995 and also the statement given by the applicant before the Inquiry Officer. There does not appear to be any irregularity having been committed by the Inquiry Officer if the enquiry was based on the statement of the applicant which he has clearly admitted of his remaining unauthorised absence for the period in question.

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5. It has ~~since~~ been urged by the learned counsel for the applicant that the appellate authority has though modified the punishment order from compulsory retirement to the penalty of reduction to lower grade, but obviously the punishment is disproportionate to the misconduct ^{proved} against the applicant. The Appellate Authority has not considered the fact that the applicant is a Grade 'D' employee and has been punished for merely remaining absent for two months and ~~he~~ has been awarded major punishment of reduction in rank. We also agree with this contention of the learned counsel for the applicant and find that the punishment awarded to the applicant is obviously shocking and disproportionate to the misconduct done by the applicant. Accordingly the appellate order is quashed. We, therefore, send back the case to the appellate authority to reconsider the case of the applicant for awarding minor punishment instead of major punishment. This exercise will be completed within a period of three months from the date of communication of this order. There shall be no order as to costs.

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Member (A) Member (J)

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