

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 23rd day of September, 2003.

QUORUM : HON.MR. JUSTICE R.R.K. TRIVEDI, V.C.

HON. MR. D. R. TIWARI, A.M.

O.A. No. 1165 of 1997

Madhav Singh S/O Late Sukhdeo Singh R/O Village Bichiya,
P.O. Chitara, Tehsil and District Satna, at present residing
at Naini, Allahabad.....

..... Applicant.

Counsel for applicant : Sri S. Dwivedi.

Versus

1. Union of India through the Secretary, Ministry of Railways,
Government of India, Baroda House, New Delhi.
 2. The Divisional Railway Manager, Central Railway, Jabalpur.
 3. The Divisional Eng-ineer (N), Central Railway, Jabalpur .
 4. The Assistant Engineer (M), Central Railway, Satna, M.P.
 5. The Permanent Way Inspector, Central Railway, Shankargarh.
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..... Respondents.

Counsel for respondents : Sri G.P. Agarwal.

O R D E R (ORAL)

BY HON.MR.JUSTICE R.R.K. TRIVEDI, V.C.

By this O.A. filed under section 19 of A.T. Act, 1985, applicant has challenged the order dated 20.5.1991 passed by Respondent No.4 by which applicant has been removed from service on conclusion of the disciplinary proceedings. The applicant filed appeal which has been dismissed by order dated 22.7.1996 by Respondent No.3, Divisional Engineer, Central Railway, Jabalpur, aggrieved by which he has approached this Tribunal.

2. The facts of the case are that the applicant was serving as Gangman under P.W.I., Shankargarh. He was served with the memo of charge dated 2.4.1987 with the allegation that on 19.2.87, P.W.I. inspected the Railway track by push trolley from Iradatganj to Naini. During inspection, applicant was not found. He was working that day as Keyman.



The applicant, in the evening, was found near a tea stall. He was called and asked to collect the keys but he refused. Thus, he disobeyed the order of the P.W.I. and he also had beaten and insulted P.W.I. The enquiry report was submitted by the Enquiry Officer on which basis, the order of punishment was passed.

3. Learned counsel for applicant submitted that for alleged incident punishment of removal is excessive and not commensurate to the charge. The Disciplinary Authority as well as the Appellate Authority have passed orders without recording any reasons. The orders are short and cryptic. Counsel for applicant has placed reliance on the judgment of Hon'ble Supreme Court wherein it has been held that for such incident punishment of removal is not justified. (AIR 1982 SC 1552).

4. Sri G.P. Agarwal, learned counsel for respondents, on the other hand, submitted that applicant admitted the charge. He has placed before us the various paragraphs of counter affidavit where statement of applicant has been reproduced wherein he admitted the charge. It is also submitted that the charge has been found proved. This Tribunal cannot interfere with the punishment awarded and no case is made out by the applicant for interference.

5. We have carefully considered submissions of counsel for the parties and perused the record. It is true that the applicant admitted his charge that he had beaten the P.W.I. and also insulted him and in the circumstances, there is no ground for interference so far as the view taken by the Appellate Authority and the Disciplinary Authority with regard to the charge, is concerned. The charge against the applicant has been found proved. However, extreme penalty of removal from service should be awarded only for the cogent reasons recorded by the authorities. Hon'ble Supreme Court in case of Rama Kant Misra Vs. State of U.P. AIR 1982 SC 1552 in para 8 of its judgment, has held as under :-

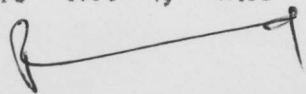
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"What has happened here? The Appellant was employed since 1957. The alleged misconduct consisting of use of indiscreet or abusive or threatening language occurred on Nov. 18 1971, meaning thereby that he had put in 14 years of service. Appellant was Secretary of the Workmen's Union. The respondent management has not shown that there was any blameworthy conduct of the appellant during the period of 14 years's service he rendered prior to the date of misconduct and the misconduct consists of language indiscreet, improper or disclosing a threatening posture. When it is said that the language discloses a threatening posture, it is subjective conclusion of the person who hears the language because voice modulation of each person in the society differs and indiscreet, improper, abusive language may show lack of culture but merely the use of such language on one occasion unconnected with any subsequent positive action and not proceeded by any blameworthy conduct cannot permit an extreme penalty of dismissal from service. Therefore, we are satisfied that the order of dismissal was not justified in the facts and circumstances of the case and the Court must interfere. Unfortunately, the Labour Court has completely misdirected itself by looking at the dates contrary to record and has landed itself in an unsustainable order. Therefore, we are required to interfere."

6. From perusal of the above order of Hon'ble Supreme Court, it is clear that order of dismissal from service on such allegation of charge is excessive and the Court can interfere with the quantum of punishment.

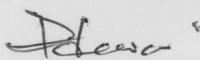
7. The orders of Appellate Authority and the Disciplinary Authority are very short and cryptic orders. No reasons have been recorded for awarding extreme penalty. In the circumstances, in our opinion, matter may be sent back to the Disciplinary Authority for passing a fresh order with regard to quantum of punishment in accordance with law in the light of observations made above.

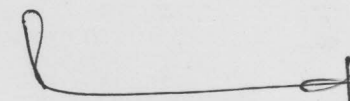
8. For the reasons stated above, this O.A. is allowed in part. The impugned orders dated 30.5.1991 and 22.7.1996 are quashed so far as the penalty of removal from service is concerned. The case is being sent back to the Disciplinary Authority, Respondent No. 4, who will consider the facts



and circumstances of the case and shall pass a fresh order about the penalty within a period of two months from the date of receipt of a copy of this order.

No order as to costs.


Member A


Vice-Chairman

Brijesh/-