

OPEN COURTCENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Allahabad : Dated this 20th day of July, 2001.

Original Application No.1425 of 1997.CORAM :-

Hon'ble Mr. SKI Naqvi, J.M.

Hon'ble Maj Gen KK Srivastava, A.M.R.N. Chaturvedi Son Sri MK Chaturvedi,
Resident of 721/I-C, Nai Basti,
Jhansi.

(Sri R.K. Nigam, Advocate)

. Applicant

Versus

1. Union of India through General Manager,
Central Railway, Mumbai CST.
Divisional Railway Manager, Central Railway,
Jhansi.
3. Sr. Divisional Commercial Manager, Central Railway,
Jhansi.

(Sri D.C. Saxena, Advocate)

. Respondents

O R D E R (O_r_a_l)By Hon'ble Mr. SKI Naqvi, J.M.

Sri KN Chaturvedi, the applicant, while posted as Relieving Goods Clerk at Charkhari Road Station, he was subjected to disciplinary proceedings on the charge of misappropriation of a sum of Rs.8975/-. The matter was enquired by the duly appointed Inquiry Officer, who submitted his enquiry report holding charges proved against the applicant Sri R.N. Chaturvedi. The disciplinary authority considered the enquiry report and passed the impugned order dated 9-6-1997 (Annexure-A-1) through which he has been removed from service. Against this order,

SKM

the applicant preferred an Appeal to the competent Appellate Authority but the same was rejected vide order dated 29-9-1997. The applicant has come up before this Tribunal with the prayer to quash the punishment order as well appellate order and for a direction to provide consequential benefits. The punishment order as well as the appellate order have been impugned mainly on the ground that charge sheet is quite vague and no evidence has been given chargewise and also that the charges have been taken as proved merely on the basis of extraneous considerations. The applicant has also mentioned that the Inquiry Officer, the disciplinary authority and the appellate authority have not followed the mandatory provision of DAR Rules and it is a case of double jeopardy where the applicant has been subjected to recovery of the amount as well as the punishment of removal.

2. The respondents have contested the case, filed the counter reply and supported the impugned orders with the specific mention that it is a case in which the delinquent himself admitted to have misappropriated the Railway money and expressed in writing vide Annexure-CA-1 ^{in the reply} and with enclosure, and also that applicant made some payment in the year 1995 to recoup the allegedly misappropriated amount. It has also been mentioned that it is not a simple case of embezzlement but there are also serious irregularities for which he was subjected to disciplinary proceeding.

3. Heard Shri Upendra Nath, briefholder of Sri RK Nigam counsel for the applicant and Sri Prashant Mathur, brief holder of Sri D.C. Saxena, counsel for the respondents.

4. First of all we take up the plea of double jeopardy as ^{raised} ~~if raised~~ from the side of the applicant. It has been asserted that the applicant has been subjected to two

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punishments for one guilt i.e. he has been removed from the service and also subjected to recovery. We have considered this argument in the light of facts as have come up through the pleadings. The amount which is sought to have been recovered from the applicant is that amount which he is alleged to have misappropriated and converted the Railway Money into his personal expenses. When it was found proved in the departmental enquiry that the applicant misappropriated the Railway Money that was to be recovered. In other words the amount to which the Railway Establishment was entitled and the same was wrongfully and unlawfully appropriated by the applicant was taken back and for this mis-demeanure and misuse of his position, as an employee of the Railway Department, he has been punished by removal from service and, therefore, we do not think that it comes within the purview of the principles of 'double jeopardy'.

5. The learned counsel for the applicant also pointed out that he was not given opportunity to cross-examine the witnesses during the course of enquiry and was also denied the opportunity to adduce evidence in his defence. There is clear averments in paragraph no.7 of the respondents' reply that full opportunity was afforded and it would be wrong to say that he was not allowed to cross-examine the witness or 'adduce evidence' in his defence.

6. On perusal of record and taking into consideration the arguments coming from either side, we find that the impugned order has been passed by the competent authority and their authority has not even been challenged from the side of the applicant. There is also admission from the side of the applicant for his having misappropriated the amount

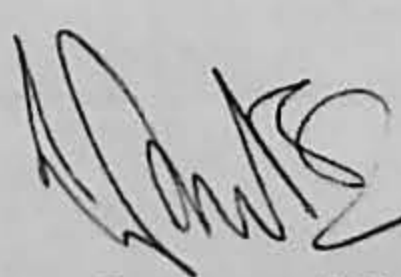
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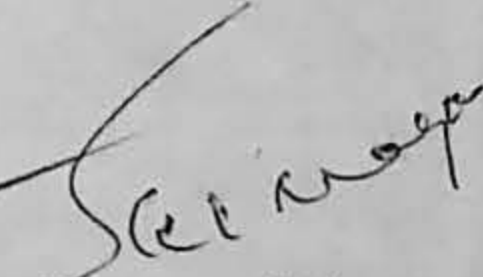
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for which he was subjected to disciplinary proceeding. His statement has been brought on record alongwith Annexure-CA-1. Learned counsel for the applicant mentions that these documents, through which the respondents assert ^{or} that the applicant has admitted his guilt has not been referred in the pleadings from the side of the respondents. We considered this factor ^{or} also and find that this Annexure-CA-1 refers to admission of guilt by the applicant and a photocopy of the statement of the applicant has been enclosed with this Annexure-CA-1 which has been referred in paragraph no.1 of the reply from the side of the respondents and, therefore, it is not the position that this fact has xxxx not been referred in the respondents' pleadings.

7. The perusal of the appellate order shows that it is well detailed speaking order and there is nothing for which it deserves to be quashed.

8. For the above, we find no merit and ^{the} no relief sought for ^{let-} can be granted. The OA is dismissed accordingly with no order as to costs.


Member (A)


Member (J)

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