

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

(11)

Original Application No. 700 of 1997

Allahabad this the 26th day of July, 2001

Hon'ble Mr.S.K.I. Naqvi, Member (J)
Hon'ble Maj.Gen.K.K. Srivastava, Member (A)

Sri Vidya Prasad Sharma, Bridge Inspector-III/
Executive Engineer(Bridge), North Eastern Railway
Gorakhpur, R/o North Jatapur Suriya Kunwa P.O.
Basarapatpur, Distt. Gorakhpur.

Applicant

By Advocate Shri Ashutosh Srivastava

Versus

1. Union of India through Ministry of Railways,
Rail Bhawan, New Delhi.
2. Chief Workshop Manager(Bridge), North Eastern
Railway, Gorakhpur.
3. Senior Divisional Engineer, North Eastern
Railway, Sonpur.
4. The Chief Engineer(Bridge) HQ North Eastern
Railway, Gorakhpur.

Respondents

By Advocate Shri V.K. Goel

O_R_D_E_R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

The applicant-Shri Vidya Prasad Sharma
while posted as P.W.I., was served with memo of
charge on the ground that he took unauthorisedly

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the privilege passes in the name of his wife who was living separately and deserted by him, and also in the name of other family members, who were not authorised to this privilege.

2. The inquiry was conducted and submitted to disciplinary authority with the finding that "it is proved that the SPS has failed to maintain devotion to duty and acted in a manner unbecoming of a Railway Servant." Copy of inquiry report has been annexed as annexure-8 to the O.A. The disciplinary authority passed the punishment order vide order dated 05.08.1996 through which the applicant has been reverted ^{to} with the lowest stage in the pay scale for a period of five years. He preferred appeal against this order, which has been decided and the punishment order modified on 09.01.1997, copy of which has been annexed as annexure-16, to the extent that the reversion in the pay scale was reduced to 3 years. Then the applicant came up in the revision, which has been decided vide annexure-1 dated 15.04.1997, wherein the punishment remained as such.

3. Impugning the above orders, the applicant has come up seeking relief to the effect that these punishment orders-appellate order and the order passed by the revisional authority be quashed with consequential benefits.

4. The respondents have contested the case, filed counter-reply and supported the impugned orders

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with the mention that they are in accordance with the facts, law and rules in this regard.

5 Heard Shri Ashutosh Srivastava, counsel for the applicant and Shri V.K. Goel for the respondents. Perused the record.

6. For convenience sake we reproduce ^h the ~~Conclusion~~ finding portion of the punishment order as under;

"On going through the representation of SPS it is concluded that his representation are baseless and cannot be accepted owing the following reasons. The SPS is educated and his lame excuse that " _____ Since the prima-facie responsibility devolves upon the pass issuing official etc., "does not stand. He was at liberty to get the family passes cancelled,--

His annual family declaration for pass included his wife when he had already deserted and approached the court for legal separation and just to extend the privilege to some other lady, he had taken a pass including wife,

His aforesaid acts tantamount to serious misconduct and deserve major penalty be imposed."

h which goes to indicate that the applicant has been punished mainly on the ground that he obtained the privilege pass in the name of his wife as well just to extend the privilege to some other lady, which ^h tantamounts to serious misconduct and deserved ^h the major penalty. Keeping in view this observation, we turned to the findings by the Inquiry Officer, who mentioned in para-6.1.4 that "the evidences on record do not provide any evidence that any other lady was found

travelling on the authority of those passes/PTOS in disguise of Smt. Prabha Sharma and as such, it will not be proper to presume that the SPS had taken those passes/PTOs with the intention to extend undue benefit to another lady".

7. With the above position in view, we find that the Inquiry Officer held that the passes obtained by the applicant in the name of his wife, ~~was~~ ^{here} not utilised to extend the privilege to the some other lady, whereas as per punishment order he has been punished on this count and summarily on this count only the quantum of punishment has been determined, and thereby the punishment order is not in accordance with the finding by the Inquiry Officer. We ~~do not find any~~ ^{that no} reason mentioned in the punishment order for this disagreement nor any notice to that effect was issued to the applicant to give him an opportunity to make representation on this count, and thereby this punishment order cannot be upheld, ^{hence} quashed accordingly. The order passed by the appellate authority and revisional authority upholding the factual portion of these punishment order also go and do not remain to be sustained. The O.A. is allowed accordingly. The punishment order (annexure-3), appellate order(annexure-2) and the revisional order(annexure-1) stand quashed. The applicant be provided with consequential benefits with immediate effect. However, the competent authority in the respondents establishment are not precluded to pass fresh order in accordance with rules and observations made above.