

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

Original Application No.418 of 1998

Wednesday, this the 17th day of March, 2004

Hon'ble Maj. Gen. K.K.Srivastava, A.M.

Hon'ble Mr. A. K. Bhatnagar, J.M.

Lal Bahadur,
S/o Sri Ram Garib,
Key Man Gang No.6,
Under PW 1, Sigraulti
District Sonebhadra,
R/o Quarter No.6,
Khata No.6,
Shakti Nagar Railway Colony,
P.O. Shakti Nagar,
District - Sonebhadra.

.....Applicant.

(By Advocate : Shri Ashutosh Srivastava)

Versus

1. Union of India,
through Divisional Engineer (4),
Eastern Railway,
Dhanbad.
2. The Assistant Engineer Eastern
Railway, Chopan.
3. The Public Work Inspector,
Sigraulti, District Sonebhadra,
Eastern Railway.

..... Respondents.

(By Advocate : Shri A.K.Gaur)

O R D E R

By Hon'ble Maj. Gen. K.K.Srivastava, A.M. :

In this O.A., filed under Section 19 of A.T. Act, 1985, the applicant has prayed for quashing the punishment order dated 26.4.1996 by which the applicant's pay was reduced from Rs.1160 to Rs.1120/- (Two stages) in the same pay scale for two years without cumulative effect and also

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the Appellate order dated 7.7.1997 by which the appeal of the applicant has been rejected.

2. The facts, in short, are that the applicant was initially appointed on 9.5.1964 as Khalasi in the respondents' establishment. By the order of Assistant Engineer, Eastern Railway, Chopan dated 24.8.1995, the applicant was placed under suspension w.e.f. 24.8.1995. The applicant challenged the suspension by filing the O.A. No.1220/95, which was dismissed in limine by order dated 5.12.1995. However, it has been submitted by the applicant that the suspension of the applicant was revoked by order dated 1-12-1995 which was not served to him and was served to him only on 25.1.1996. The applicant was served with minor penalty Charge Sheet (SF-11) dated 14.2.1996 which as per the applicant was served on him on 1.7.1996. The grievance of the applicant is that the punishment order dated 26.4.1996 was passed before the applicant could receive the charge sheet and file his reply. Therefore, there is a clear cut violation of principles of natural justice, hence this OA. It has been contested by the respondents.

3. Learned counsel for the applicant submitted that as per settled law the applicant had to be given reasonable opportunity to defend himself. In fact, it has been a one man show i.e. ^{by} Shri R.P.Kaushar, who was the Assistant Engineer. Shri R.P. Kaushar suspended the applicant on 24.8.1995 and revoked the suspension order on 1.12.1995 but deliberately delayed to communicate the revocation order of the applicant and finally he served the same on 25.1.1996. Shri R.P.Kaushar cooked up the case ^{with} un-authorised absence against the applicant for the period

from 1.12.1995 to 31.12.1995 deliberately . Not only this Shri R.P.Kaushar did not even serve the charge sheet dated 14.2.1996 on time and served the charge sheet on 1.7.1996 to the applicant only after he passed the punishment order dated 26.4.1996.

4. Learned counsel for the applicant further submitted that the gross injustice has been done to the applicant and in view of the above fact, the OA is liable to be allowed and the applicant is entitled for relief.

5. Opposing the claim of the applicant, the learned counsel for the respondents submitted that no in-justice has been done with the applicant. The charge sheet dated 14.2.1996 was served on the applicant on 23.3.1996 itself and the applicant has given the receipt in token thereof. The applicant did not give any representation and when nothing was heard from the applicant, the disciplinary authority legally passed the punishment order. It is further submitted that ^{as}alleged by the applicant, no malafide on the part of Shri R.P.Kaushar has been proved.

6. We have heard counsel for the parties, considered their submissions and perused the records.

7. We have also perused the original ~~file~~ ^{h h} disciplinary file produced by respondents' counsel before us. The main question for adjudication before us is whether the charge sheet dated 14.2.1996 was served on time so that the applicant could file his representation or not. On perusal of the original file, we find that the receipt signed by the applicant ^{by the applicant} has been placed in which the date has been given as 23.3.1996. We observed that there is a over-writing on the figure of the

month. On close look it appears that earlier the date mentioned is 23.2.1996, which has been corrected as 23.3.1996. The applicant in para 4.7 has alleged that the charge sheet was served on him on 1.7.1996. From no stretch of imagination, it can be established that the charge sheet was served to the applicant on 1.7.1996 because if that was the case in the original receipt filed in the disciplinary file there would have overwriting in the date itself, which is not so as the dated 23.3.1996 is written. After perusing the receipt granted by the applicant in respect of receipt of charge sheet dated 14.2.1996, we are of the view that the charge sheet was served well within time and the punishment order was passed thereafter on 26.4.1996. We would like to further observe that the applicant in his appeal dated 16.7.1996 has also claimed that the charge sheet was served on him on 1.7.1996 and on this ground alone the Appellate Authority has rejected the appeal and upheld the punishment. In our opinion, no illegality is established on the part of the Appellate Authority. We have already discussed in the previous para that the contention of the applicant, that the charge sheet was served on him on 1.7.1996 is not sustainable in view of the original records placed before us.


8. Learned counsel for the applicant has alleged malafide on the part of Shri R.P.Kaushar and submitted that it was one man show. We are not in agreement with the applicant. In case there was a case of malafide, Shri R.P.Kaushar should have impleaded as one of the respondents which has not been done.

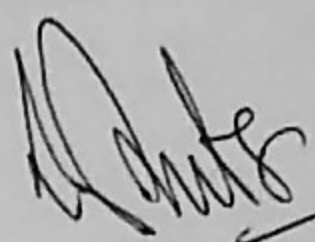
9. Admittedly, the applicant has superannuated in the year 2000. Since we do not find any good ground for

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interference, ^hthe O.A. is liable to be dismissed as it is lacking in merit.

10. In the facts and circumstances, the OA is dismissed being bereft of merit with no order as to costs.


MEMBER (J)


MEMBER (A)

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