

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 20th day of January 2003.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MR. A.K. BHATNAGAR, J.M.

O. A. No. 70 of 1998

Jagdish Babu Dubey S/O Late Ram Karan Dubey, aged about 50 years R/O Village Jaitpura, P.O. Chandrapura, District Etawah (UP)..... Applicant.

Counsel for applicant : Applicant in person.

Versus

1. The Union of India owning and representing the Northern Railway, notice to be served upon the General Manager, N. Railway, Baroda House, New Delhi.
2. Shri V.K. Jaiswal, the then Addl. Divisional Railway Manager Northern Railway, Divisional Railway Manager's Office, Alld.
3. Shri Dayal Dogra, the then Senior Divisional Electrical Engineer (General), now posted as Senior Divisional Electrical Engineer (TRD), DRM's Office, Allahabad.
4. Shri Chandra Kant Ghaisas, the Asstt. Electrical Engineer (General), Northern Railway, Kanpur Central.

..... Respondents.

Counsel for respondents : Sri A. Sthalekar.

O R D E R

BY HON. MR. S. DAYAL, A.M.

The applicant has filed this application for setting aside memorandum of charge, the order of punishment dated 5.12.95 and the order in appeal dated 14.5.97. He has also sought payment of salary with increments and 20% interest, payment of difference between 2nd class 2 tier and air conditioned sleeper fare for passes availed by him during 1996 and 1997 along with cost of application. He also prays for strictures against the respondents and compensation for torture and loss of reputation.

2. The applicant was proceeded against in a departmental enquiry held after issuance of charge sheet dated 4.5.94 which charged the applicant with negligence in checking up a defective pump taken out from stores and coupled to a repaired motor which did not lift water and had to be taken out and repaired causing non-supply of water to colonies and Railway station from 8th April 94 to 13th April 94. He had also been charged with negligence in supervision by remaining present at the site and getting the work done instead of occasional visits to the site. A punishment order was passed against the applicant after departmental enquiry reverting him as Electrical Chargeman in the pay scale of Rs.1400-2300. His appeal was rejected by the appellate authority.

3. The applicant appeared in person and presented his arguments. Sri Amit Sthalekar presented arguments on behalf of the respondents.

4. The applicant has sought relief on the ground that the documents asked for by him were not supplied by the respondents. Secondly he claims that the Enquiry Officer acted both as a judge as well as prosecutor as he himself cross examined the witnesses. Thirdly he has claimed that documents were not produced by relied upon witnesses and have been denied by the applicant and should not have been taken into consideration. Fourthly, the documents which showed the action taken by the applicant were under the custody of the respondents and were not taken into account and the applicant was held guilty. Fifthly, the applicant has claimed that he was subjected to double jeopardy.

5. The learned counsel for respondents denied that the enquiry suffered from any infirmity and that any lapse, as pointed out by the applicant has occurred during the enquiry.

6. We have carefully gone through the pleadings on record. We find that the charge against the applicant was that office pump in Mirzapur had become defective on 8.4.94

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and could be repaired only on 13.4.94. It has been mentioned that as a consequence of non-repair of the pump for as many as six days, there was no supply of water to colonies and the Railway Station.

7. The enquiry report, in its analysis of evidence, shows that the pump had not failed on 8.4.94. It has been mentioned in the enquiry report that the pump worked upto one hour on 9.4.94. It has also been mentioned that there had not been water failure at Mirzapur. It has been mentioned that Sri Radhey Shyam, who was a witness produced by the respondents, had said that water was made available by increasing the working hours of other three pumps at Nursery, West Cabin and Yard. It has also been mentioned in the enquiry report that none of the pump fitter was available at Mirzapur at the time of pump failure and two of them arrived on night of 9.4.94 and third in the morning of 11.4.94.

8. It is, therefore, clear that the charge sheet was issued giving wrong facts and the enquiry has been conducted on the basis of wrong facts contained in the charge sheet. Therefore, the chargesheet and the enquiry proceedings can not be sustained.

9. We, therefore, set aside the charge sheet dated 4.5.94, the order of punishment dated 5.12.95 and the order in appeal dated 14.5.97. As the incident is more than eight years old and the charge is basically of negligence, we do not consider it necessary to permit the respondents to hold enquiry afresh after correcting the chargesheet. The applicant shall be entitled to restoration of pay from the date the said pay was reduced as the reversion stands quashed. The applicant shall be entitled to re-fixation of pay on account of setting aside of the order of reversion. We do not consider any other relief sought by the applicant is admissible hence there is no order as to compensation as well as costs.

A.M.
J.M.

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