

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

...

original Application No. 1428 of 1998

this the 7th day of April 2004.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)
HON'BLE MR. S.C. CHAUBE, MEMBER (A)

Moinuddin, S/o Sri Rahmat Ullah, R/o Village Fatehpur,
post office Jhungia Bazar, District Gorakhpur.

Applicant.

By Advocate : Sri Syed Wazid Ali.

Versus.

1. Union of India through its Secretary, Ministry of Railways, New Delhi.
2. Divisional Mechanical Engineer (power), North Eastern Railway, Lucknow.
3. Divisional Railway Manager, North Eastern Railway, Lucknow.

Respondents.

By Advocate : Sri J.N. Singh (Absent)

O R D E R

PER S.C. CHAUBE, MEMBER (A)

By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has sought quashing impugned orders dated 22.12.1997, 2.3.1998 and 22.6.1998 passed by the respondents, besides a direction not to realise any amount from the salary of the applicant in view of the impugned orders.

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2. Earlier, a chargesheet for/ (SF-11) was issued against the applicant vide letter dated 24.9.1996.
3. The brief facts of the case are that Sri Moinuddin, Hd. Clerk, RDI/Gorakhpur, under LF/Gorakhpur

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committed a misconduct inasmuch as he manipulated the posting of HSD oil in the ledger on 3.4.96 by cutting/overwriting from actual quantity 62800 lits to 60800 lits., thereby misappropriated 2000 lits. of HSD oil for his personal gain with an illmotive and malafide intention.

4. It has been pleaded by the applicant that the copy of the enquiry report, which formed the basis of the disciplinary proceedings, was not made available to him. Thus, he has been denied the proper opportunity to defend himself. Further, respondent no.2 without giving the proper opportunity to the applicant, passed the order against the applicant. Thirdly, although the applicant had filed an appeal before the Additional Divisional Railway Manager, N.E.R., Lucknow, yet the appeal was decided by the respondent no.2 by order dated 2.3.1998. Finally, the applicant preferred a revision petition before the D.R.M., N.E.R., Lucknow (respondent no.3) on 27.4.1998 and stated that the disciplinary authority had acted in a very capricious manner without considering the relevant rules and letters of the Railway Board. According to the applicant, although the revision petition was preferred before the respondent no.3, yet again the same was decided on 22.6.1998 by the respondent no.2 without any legal authority to pass the impugned order and again the revisionary authority has not considered his case in a just and fair manner as would be observed by its order dated 22.6.1998.

5. On the other hand, the respondents have stated that the letter dated 2.5.1997 was issued to the applicant/in reference to his application dated 10.5.96 to examine and collect the photostat copies of the relevant documents from the office of the General Manager

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(Vigilance), N.E.R., Gorakhpur. The General Manager (Vigilance), N.E.R., Gorakhpur, further vide letter dated 6/7.7.1987 informed the applicant he has examined the relevant documents and has received the photostat copies thereof. It has further been pleaded by the respondents that though the applicant had examined and received the photostat copies of the relevant documents from the office of the General Manager (Vigilance), N.E.R., Gorakhpur, yet he did not submit his defence in time. Earlier the applicant was asked to submit his defence on the chargesheet for minor penalty dated 24.9.96 within 10 days vide letter dated 2.9.1997, and thereafter the disciplinary authority awarded the punishment for recovery of Rs.15360/- from the pay of the applicant vide DME (P), N.E.R., Lucknow letter dated 22.12.1997. Finally, the respondents have stated that the orders passed by the disciplinary, appellate and revisionary authorities are according to law and under the provisions of the relevant rules.

6. We have perused the pleadings and heard the counsel for counsel for the applicant. However, the counsel for the respondents was not present. We are, therefore, deciding the case by attracting Rule 16(1) of CAT (procedure) Rules, 1987.

7. The applicant has mainly pleaded non-supply of the enquiry report thereby causing lack of reasonable opportunity to him to defend himself. This averment of the applicant is not based on facts because he was issued a chargesheet for minor penalty (SF.11). On the other hand, it is amply clear from the averments of the respondents that on 6.5.1997 the applicant was afforded an opportunity in the office of the General Manager (Vigilance), N.E.R., Gorakhpur to inspect the relevant documents besides being provided with photostat copies thereof. Therefore, the contention of the applicant that he was not provided reasonable

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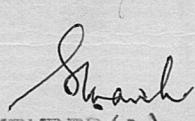
opportunity to defend himself falls on the ground and, therefore, not tenable. Additionally, it has been pleaded by the applicant that the appeal and revision petition preferred by him to appellate authority i.e. A.D.R.M., N.E.R., Lucknow, as well as revisionary authority i.e. D.R.M., N.E.R., Lucknow have actually been decided by the respondent no.2 i.e. Divisional Mechanical Engineer, N.E.R., Lucknow. However, a perusal of the letter dated 2/3.3.98 of Divisional Mechanical Engineer, N.E.R., Lucknow, renders it amply clear that the appeal preferred by the applicant was placed before the appellate authority and the merely orders rejecting the appeal have/been communicated to the applicant by the Divisional Mechanical Engineer (respondent no.2). Similarly, after carefully going through the revision petition, the revisionary authority i.e. D.R.M., N.E.R., Lucknow, had observed that the applicant cannot be absolved of the responsibility of correct maintenance of ledger showing shortage/excess of the fuel, shortage in this case. The revisionary authority has, therefore, confirmed the punishment imposed upon the applicant. These orders again, it would be observed, were actually communicated to the applicant by Divisional Mechanical Engineer, N.E.R., Lucknow. Thus, the contention of the applicant that the orders both on his appeal as well as revision petition were passed by the respondent no.2 and not by the competent authority is totally mis-placed and, therefore, untenable.

8. The applicant has not been able to bring-out any facts or circumstances suggesting violation of procedure or rules in the conduct of proceedings under SF.11 or even on the part of the appellate as well as revisionary authorities. Similarly, he has not been able to bring on record any manifest error or element of arbitrariness

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on the part of the concerned authorities like illegality, irrationality and procedural impropriety. The apex court in a number of cases have dis-favoured intervention of the Courts in the realm of administrative authorities particularly when the findings recorded by the administrative authorities as to misdemeanour are supported by legal evidence and as per law. We are inclined to recall the decision of the Hon'ble Supreme Court in Union of India & Others Vs. B.C. Chaturvedi reported in (1995) 6 SCC 750, wherein it was held that if the findings of the disciplinary/appellate authorities are based on some evidence, the Courts/Tribunals cannot re-appreciate the evidence and substitute its own findings. Similarly, in a later case namely Apparel Export Promotion Council Vs. A.K. Chopra (J.T. 1999(1)SC 61) the Hon'ble Supreme Court has decided that if the decision has been arrived at by the Administrative Authority after following the principles established by law and the rules of natural justice and the individual has received a fair treatment to meet the case against him, the Courts cannot substitute its judgment for that of the Administrative Authority on a matter which fell squarely within the sphere of jurisdiction of that authority. The interim order, *therefore*, passed earlier shall stand vacated.

9. For the aforesaid reasons, the O.A. is dismissed with no order as to costs.


MEMBER (A)


MEMBER (J)

GIRISH/-