

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD

ORIGINAL APPLICATION NO. 31 OF 2001

ALLAHABAD THIS THE 22nd DAY OF FEBRUARY, 2008

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J
HON'BLE MR. SHAILENDRA PANDEY, MEMBER-A

K.P. Singh, S/o late Purshottam Singh, R/o 586-F,
Boulia Railway Colony, Gorakhpur.

.....Applicant

(By Advocate R.K. Dubey.

V E R S U S

1. Union of India through G.M. N.E.R., Gorakhpur.
2. G.M. (Personnel), N.E.R., Gorakhpur.
3. Dy. Controller of Stores/ IC Controller of Stores Office, N.E. Railway, Gorakhpur.
4. Sri Bijay Kumar, Dy. Controller of Stores/DSL Controller of Stores Office, N.E.R., Gorakhpur.
5. The Chief Material Manager, Controller of Stores Office, N.E. Railway, Gorakhpur.

.....Respondents

(By Advocate: Sri M. Pandey)

O R D E R

BY SHAILENDRA PANDEY, MEMBER-A

The present O.A. has been filed against the major penalty imposed by the respondent no.4 vide order dated 31.10.2000 by which the applicant was reduced to the Lower Post of Head Clerk in the scale of Rs. 5000-8000/- and also against the order dated 2.1.2001 passed by respondent no.5 while deciding the appeal of the applicant.

2. The brief facts of the case are that the applicant while working on the post of O.S. Gr. II in COS Office is alleged to have prepared a different quotation on behalf of one firm namely M/s Matri Electric House, which was submitted for the purposes of local purchase during the month of January, 1994. This was allegedly done in connivance with the local purchase dealer of the COS office. The applicant was, thus, accused of misusing his official position and of failure to maintain absolute integrity and devotion to duty and acting in a manner not becoming a Railway Servant, in contravention of Rule 3.1 (i), (ii), (iii) of the Railway Service (Conduct) Rules, 1966. Accordingly a chargesheet dated 23.6.1997 was issued to the applicant by respondent no.3, disciplinary proceedings were initiated and an Inquiry Officer was appointed to look into the charges by the G.M. Vigilance, N.E.R. The quotation which formed the basis of the chargesheet alongwith the writing statement dated 21.10.1994 of the applicant were sent for expert opinion of the Government Examiner of Questioned Documents (GEQD) who opined that the writing sent to them tallied with that of the writing in the quotation. Although, the Inquiry Officer finally held that the charges were not proved, the disciplinary authority, on the basis of the inquiry report and the evidence of the Government Hand Writing Expert and other documents, disagreed with the findings of the Inquiry Officer



and held that the charges to have been proved and accordingly imposed the penalty in question. After that, the applicant appealed to the appellate authority, which vide its order dated 2.1.2001 stated that he did not find any reason to change the decision taken by the disciplinary authority and, therefore, confirmed the penalty imposed.

3. The applicant's counsel has alleged that both the orders of imposing the penalty and rejection of appeal by the appellate authority are bad in law as the charges levelled against the applicant were not based on facts, but were infact forged and fabricated by the staff of the then Vigilance Organization and that the GEDQ opinion does not contain any reason for stating that the two writings are of on one and same person and that infact this GEDQ opinion has also been fabricated by the Investigating agency as the opinion was dispatched on 28.7.1995, but was signed on 28.8.1995 i.e. one month earlier. He has further alleged that no prosecution witness, nor even the GEDQ on whose opinion the charges were framed were cited along the charge memo dated 23.6.1997, and that no opportunity was given to the applicant to cross examination GEDQ (who was not summoned). It is further alleged that during the course of the inquiry, the applicant located the person/persons who wrote the alleged quotation and they accepted that they had written these and that the applicant had submitted an expert



opinion of a Private hand writing expert, who had confirmed the quotation were not in the hand writing of the applicant, but were in the hand writing of two employees of the Firm M/S Matri Electric House, Gorakhpur. The applicant's counsel has also contended that the vigilance organization is only an advisory organization and that the respondent no.4 has malafidely disagreed with the inquiry report without giving any reason for rejecting the opinion of the local hand writing expert and taking into consideration the opinion of the GEQD, and that all this has been done only on the pressure of the Vigilance Organization. He has also contended that the order dated 2.1.2001 of the appellate authority is without application of mind and also on the pressure of the Vigilance Organization.

4. The applicant's counsel has also cited in this case the following decisions in support of his contentions:

- (1) 2000 (1) UPLBEC 179 in re. Diwan Singh Vs. LIC of India.
- (ii) 1999 (3) UPLBEC 2419 (SC) in re. Yogenath D. Bagde. Vs. State of Maharashtra & Another.
- (iii) 2006 (2) UPLBEC 1538 SC. In re. Ranjit Singh Vs. U.O.I. & Ors.

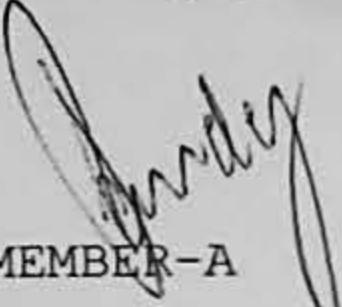
5. The respondents' counsel has stated that the chargesheet was issued to the applicant alongwith the list of witnesses and there was no violation of any rule in the departmental proceedings and that the chargesheet has been framed and issued in accordance with law. He has further stated that the

applicant had never made any request to call upon the GED hand writing expert for cross examination and in the absence of such a request by the charged official, it was not obligatory to summon the expert. He has emphasized that the opinion given by the GED is one which is given by an independent agency recognized for the purpose. With regard to the allegations of pre-dating of signature, he was pointed out that ~~with~~ any signature is appended only after preparation of the letter to be signed and while preparing the letter the actual dispatch date of the letter covered in the sealed envelope are generally written. Thus, in the instant case, the letter was prepared on 28.7.1995 and has been signed on 28.8.1995. The respondents' counsel has also argued that the disciplinary authority found discrepancy in the findings of the Inquiry Officer and on the basis of these discrepancies, he recorded his disagreement note, which alongwith the copy of the inquiry report was given to the applicant to provide him another opportunity to defend himself. Thus, the entire case was considered carefully by the disciplinary authority and the punishment was awarded after due consideration of the inquiry report, documents relied upon and the merits of the case. He has also argued that it is totally incorrect to say that the appeal was decided by the appellate authority without application of mind. A perusal of the order of the appellate authority



itself would reveal that there has been application of mind.

6. We have heard both the counsels and have gone through the pleadings on record and the judicial citations quoted and are of the view that the entire enquiry has been conducted in accordance with the Rules on the subject and adequate opportunity has been afforded to the charged official who participated in the enquiry and submitted his defence. Keeping in view these facts and the gravity of the offence, we do not think it just and appropriate to intervene in the matter and the O.A. is accordingly dismissed. No costs.



GIRISH/-

MEMBER-A



MEMBER-J