

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

THIS THE 23rd DAY OF JANUARY, 2003
ORIGINAL APPLICATION NO. 623/01

HON. MRS. MEERA CHHIBBER, MEMBER(J)

Krishna Sahai Jauhari,
s/o Late Shri Girja Shai Jauhari,
r/o Posted as P.C.O Inspector(R/B Section)
Ticket No. 6508 H.S.K. Grade I working as stage
Inspector at Izzatnagar Bareilly. ..Applicant.

(By Advocate:- Shri. A.K.Shukla)

Versus

1. Union of India through Secretary, Ministry of Railways, (Northern Railway), New Delhi.
2. Production Engineer, Railway workshop Izzatnagar Bareilly.
3. Deputy Chief Mechanical Engineer, Disels Izzatnagar, Bareilly.
4. Shiv Kumar Singh, Fitter grade I (Inspector) Ticket No. 7211, P.C.O Inspector, N.R.Railway, workshop, Izzatnagar, Bareilly.Respondents.

(By Advocate:- Shri D.Awasthi)

ORDER

HON. MRS. MEERA CHHIBBER, MEMBER(J)

By this O.A the applicant has challenged order dated 9-12-2000 whereby his next increment has been stopped for a period of three years with non-cumulative effect (Page 12) and order dated 30-4-2001 whereby his appeal ^{has been R} rejected upholding the punishment.

2. The brief facts as narrated by applicant are that he was working as Fitter Grade I in the P.C.O Inspection Department of Northern Eastern Railway workshop, Izzatnagar. On 4-8-2000 he was given a chargesheet SF II on the allegation that he had deliberately noted wrong excell number of coach No. 7915 hence he committed misconduct (Annexure-3). The applicant has submitted this charge is itself wrong as the history sheet of 7835 G.S was given to him by Mr. Soloman at the eleventh hour as he had to go by 138 In and ^{he had} / no time to



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verify/check it. The applicant inspected Coach no. 7915 on 27-7-2000 and on 27-7-2000 and found various lacunas in it accordingly he and B.L.Meena prepared the report and gave the report stating therein he had been given wrong history sheet, (Annexure-2) so he gave his reply that Excell no. 381R/666 was correctly written and since report was prepared jointly he is not liable for any fault (Annexure-4). The Disciplinary Authority passed a non speaking order on 9-12-2000 imposing minor punishment on applicant stopping his next increment for three years with ^{non cumulative effect.} (Annexure -5). Being aggrieved he filed appeal but even that was rejected on 30-4-2001 (Annexure-6).

3. The applicant's counsel submitted he has been discriminated against in as much as no action ^{was R} taken against Sh. Meena even though it was a joint report. Order is non speaking so not maintainable and that it was done with malafide ^{intention R} to pressurise him to withdraw O.A 1131/99 pending in the Tribunal. No harm or loss is caused to the Railways and at best it was a mistake without any intention, so he could have been warned.

4. The O.A is opposed by respondents who have stated that applicant has been punished for his carelessness and even earlier also he had been punished as an accident had taken place due to the incompetence of applicant and he has challenged that punishment order by filing O.A NO. 1131/99. As far as the present case is concerned they have submitted, applicant is himself responsible for the maintenance of history sheet of coaches and he took a wrong document for the Joint enquiry which is held after every failure of work job. ^R As a result of it, the cause of failure of the job work on roller bearing which was furnished only recently couldn't be ascertained and safety position couldn't be improved

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within time.

5. They have further explained that applicant and one Shri. S.K.Singh are responsible for maintenance of historysheet regarding roller bearing. The duty hours start at 7.30 a.m. and the train by which applicant was to travel was scheduled for 8.25 a.m. Had he acted as a responsible person he could have gone back to the workshop as it is just 10 minutes walk from the station. The applicant couldn't depend his workshop's position as a result the joint enquiry couldn't be completed effectively. They have further submitted that applicant always shows carelessness, negligence and in difference to work therefore, it was necessary to punish him so that he may improve his working which is excepted from a Senior Man like applicant.

6. As far as Sh. B.L.Meena is concerned they have submitted he was not incharge of taking relevent document as he is a line staff not under the administrative control of workshop. It was the task of applicant to represent the case of workshop before the joint enquiry which couldn't ^{be} done as he carried wrong history sheet. They have thus submitted that no interference is called for and the case ^{may be} ~~is liable to be~~ dismissed.

7. I have heard both the counsel and perused the pleadings as well.

8. The main contention of the applicant's counsel is that the order passed by the Disciplinary Authority and Appellate Authority are non speaking. Therefore, they are not sustainable in the eyes of law. He has also submitted that since it was a joint inquiry and both the persons were ^{detained} ~~detained~~ for joint inquiry, he could not have been in

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not have been singled out and punished leaving the other person. He has also submitted that at best it was a case of mistake, therefore, only warning should have been given and the punishment granted is excessive due to the malafides as respondents were pressurising him to withdraw the O.A.

9. Starting from the last point, the law is well settled that no malafides can be alleged without impleading the person against whom malafides are alleged.

10. In the instant case it is seen that applicant has not even stated as to who was pressurising him to withdraw the O.A nor has he impleaded the said person as a respondent by name, the contention of malafides is absolutely vague, therefore, the contention of malafide is to be rejected outright.

11. As far as discrimination is concerned since applicant was the incharge and he was himself responsible for the maintenance of history sheet of the coaches as well as roller. Naturally the other person could not have been chargesheeted for the lapse or negligence committed by the applicant. Therefore, the applicant cannot be heard of saying that he has been discriminated against.

12. As far as the contention of excessive punishment is concerned. It is seen that the applicant had been given only a minor punishment that is stoppage of next increment for a period of three years with non-cumulative effect. The Hon'ble Supreme Court has already held in a number of cases that the courts should not interfere in the quantum of punishment and at best can remit the matter back to the authorities to reconsider the matter if they come to the conclusion that the punishment is too grave as compared to the mis-conduct and it shocks their conscious.



In the instant case I cannot say that the punishment awarded to the applicant has shaken my conscious especially in view of the facts as explained by the respondents in their counter affidavit. The respondents have explained that applicant was himself incharge of the maintenance of roller bearing and history sheet of coaches and it was due to the sheer negligence carelessness and indifference to work on part of the applicant that he took a wrong document with him as a result of which no effective result could come out with regard to the failure of job work carried out in the workshop. Since the applicant was himself responsible and incharge naturally he would be found responsible for the lapse and the other person namely Shri B.L.Meena was only a line man, not under the Administrative Control of workshop. It was therefore for the applicant to represent the case of the workshop before the joint inquiry which could not be done as he carried wrong history sheet with him. They have also submitted that applicant is a senior person and the duty hours started from 7.30 a.m. while the schedule time of train by which he was to travel was at 8.52 a.m. therefore if only he had been little diligent he could even have gone back to the workshop to get the correct history sheet as the workshop is only 10 minute away from the station. They have further submitted that this is not the first time that the applicant has been punished for his carelessness or his negligence and even in the past he had been punished as the accident taken place due to his negligence and it was that punishment, which was challenged by him in O.A 1131/99. I have applied my mind and come to the conclusion that since applicant has been punished for his negligence and carelessness,



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no interference is called for. I do not find the punishment to be dis-proportionate or excessive in nature. Even otherwise the conduct of a person would only be known to the officers under whom he is directly working and if the applicant is careless and negligent in his work, there is no doubt, he has to be punished for it in order to see that he does not repeat the same negligence and carelessness atleast in future. It is only a minor punishment to check the applicant and since he is working in a department where his work can affect the safety of trains which in turn would affect number of passengers who travel everyday in the trains.

13. I do not think it calls for any interference because such type of carelessness and negligence has to be checked. Accordingly, I do not find any merit in the O.A the same is dismissed with no order as to costs.


Member (J)

Madhu/