

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1083 OF 2001

ALLAHABAD, THIS THE 22nd DAY OF SEPTEMBER, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Khairati Khan s/o Late Rajjab Khan,
r/o Mohalla Mardan Naka, City and Distt. Banda,
Retired Chief Ticket Inspector,
Central Railway, Banda.

....Applicant

(By Advocate : Shri W.H. Khan)

V E R S U S

1. Union of India through Secretary,
Ministry of Railways, Rail Bhawan, New Delhi.
2. Assistant Divisional Railway, Manager (IInd),
Central Railway, Jhansi/Appellate Authority.
3. Senior Divisional Commercial Manager,
Central Railway, Jhansi/Disciplinary Authority.

.....Respondents

(By Advocate : Shri D.C. Saxena)

O R D E R

By this Original Application, applicant has sought quashing of the order dated 23.07.2002 whereby he was given the punishment of reduction in same timescale by one stage below with immediate effect till the time of his superannuation i.e. 31.07.2001. He has further challenged the order dated 06.08.2001 whereby his appeal was rejected.

2. It is submitted by the applicant that applicant was Chief Ticket Inspector in Central Railway, Banda and through out his service career, he was neither ever charge-sheeted nor any punishment was given to him. On the contrary, his career had been outstanding but just few days before his retirement on



31.07.2001. He was given the punishment as mentioned above that ^{when charge R} too was not proved in the enquiry.

3. It is submitted by the applicant that on 04.09.1999 he was travelling in Train No. 1499 from Banda to Nizamuddin on his Card Pass No.09132 and he also had Check Pass No.579751 from Banda to Kishanganj, Delhi. His wife was also travelling with him on privillage pass No.579750. These passes were absolutely valid since applicant was going on duty second time for Customer Care Course at Kishanganj, Delhi. On way Vigilance Inspector Shri R.C. Tripathi who had enmity with the applicant, (as applicant had defeated him in the election of National Railway Mazdoor in 1996-97 and applicant had also challenged and prosecuted Shri Sanjay Khare a closed friend of Shri R.C. Tripathi for travelling without ticket) got the passes seized from applicant through Conductor Shri D.N. Dwivedi. When applicant insisted that either all the documents ^{which R} ~~who~~ were seized should be entered in the receipt given by Conductor or they should ^{be R} returned back to him. His request was not adhered to and Shri R.C. Tripathi got down at Mahoba Station with the documents of the applicant. Therefore, naturally, applicant ^{also} got down at Mahoba to take back his documents or their receipts, which was given to him but he refused to return the documents. Now process was ^{continued R} ~~maintained~~ at Mahoba and F.I.R. was filed by the applicant as well as Shri R.C. Tripathi.

4. After investigation, Police submitted a charge-sheet against Shri R.C. Tripathi and on the basis of final report Shri R.C. Tripathi and Shri Poornanand were arrested by the Police and he remained in jail for 51 hours. The said criminal case is still pending against Shri R.C. Pathak. Thereafter a major penalty by departmental chargesheet was issued to the applicant on 02.12.1999 on the allegations that applicant was travelling on invalid pass and he indulged in Marpeet with Shri R.C. Tripathi Senior Vigilance Inspector.

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5. After the enquiry was held, Enquiry Officer gave his report holding therein as follows:

"Shri Khan ^{is} partially guilty of the charges as it is not proved that Shri Khairati Khan assaulted Shri Tripathi but as far as catching of collar of Shri Tripathi is concerned, it cannot be ruled out though circumstances are evident that the situation was created by R.C. Tripathi Senior Vigilance Inspector who has worked in irresponsible manner (Pg.47)."

6. It is submitted by the applicant that even though this report was based on evidence yet disciplinary authority gave a disagreement note on 06.07.2001 holding the applicant to be guilty of the charge framed against him (Pg.49). Applicant gave a detailed representation thereon but without considering the points raised by the applicant, disciplinary authority awarded punishment of reduction in the same time scale of one stage below with immediate effect till the time of his superannuation i.e. 31.07.2001 with cumulative effect ^{by} on the order dated 23.07.2001 (Pg.23). Being aggrieved applicant gave a detailed appeal placing on record the various statements made by the witnesses to show that it was a fault of Shri R.C. Tripathi who had illwill against the applicant and was trying to harras^{limit}ing. He further stated in his entire career of 38 years in service he had neither been charge-sheeted nor any punishment was imposed on him which itself shows that applicant was not at fault and is being made to suffer for the fault of Shri R.C. Tripathi. It is submitted by the applicant that even though he had given an extensive appeal but appellate authority passed the order dated 06.08.2001 whereby his appeal was rejected by stereo type manner without applying his mind (Pg.20). He has, thus, prayed that both these orders may be quashed and set aside.

7. Respondents on the other hand have opposed this O.A. They have submitted that earlier enquiry was cancelled in

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a justified manner because it was decided to conduct the enquiry jointly by one officer from the division and also by taking one vigilance officer. Therefore, enquiry was finally conducted by two officers including Shri Rajesh Kumar and Assistant Vigilance Officer, Central Railway, Mumbai. The orders have been passed as disciplinary authority was of the opinion that charge is fully proved against the applicant and since appellate authority agreed with the disciplinary authority, therefore, both these orders are absolutely valid in the eyes of law. They have, thus, submitted that the O.A. may be dismissed.

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

9. Perusal of the orders shows that disciplinary authority as well as the appellate authorities have not applied their mind to the various points raised by the applicant at all. Infact disciplinary authority has merely narrated the facts without discussing the evidence ^{on} record and without discussing the applicant's representation. Similarly, even though, applicant had filed a detailed appeal wherein he has taken number of points but yet the appellate authority has rejected the appeal in just two lines by stating that he had gone through the entire case but the appeal is rejected. For passing this type of orders, ~~only~~, he ~~did~~ ^{need to} not even open ^{the} file ^{as} such ^{type of} an order can be passed by any person. It goes without saying that once an appeal is filed with the authorities, they performed ~~for~~

*Quasi-*judicial functioning and are expected to deal with the points raised by the appellant and to decide the appeal only after dealing ^{with} the points raised by the appellant. In the instant case, none of the points raised by the applicant ^{were} ~~for~~ considered by the appellate authority, which shows totally non-application of mind. Since orders passed ~~are~~ absolutely

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cryptic and seems to be mechanical order. Both the orders passed by the disciplinary authority as well as appellate authority cannot be sustained in law. Accordingly, both the orders are quashed and set aside. However, since I have quashed both these orders on a technical ground that they were non-speaking. Therefore, this matter is remitted back to the authorities with a direction to consider all the points raised by the applicant in his representation and then to pass a reasoned and detailed order thereon under intimation to the applicant within a period of 2 months from the date of receipt of a copy of this order. In case respondents decide not to punish the applicant they shall recalculate his retiral benefits and make the payments of difference within 2 months as stated above along with due and drawn statement.

10. The O.A. is accordingly allowed partly. No order as to costs.



Member (J)

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