



RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A.No.265 of 1986

Kanhaiya Lal Prasad ..... Applicant  
Versus  
Union of India & Others..... Respondents.

Hon.D.S.Misra, A.M.  
Hon.G.S.Sharma, J.M.

(By Hon.D.S.Misra, A.M.)

In this application under Section 19 of the Administrative Tribunals Act XIII of 1985 the applicant has prayed for quashing the order dated 17.6.83 imposing the penalty of stoppage of increment for two years with cumulative effect and loss of seniority.

2. The applicant while working as TTE was served with a chargesheet alleging serious misconduct and gross neglect of duty on 18.1.1981. In the enquiry held into these allegations the Inquiry Officer held him guilty of the charge and the disciplinary authority by his order dated 19.10.82 imposed the penalty of removal from service. The applicant filed an appeal and the appellate authority vide his order dated 17.6.83 quashed the penalty of removal from service and imposed the penalty of stoppage of increment for two years with cumulative effect and loss of seniority.

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3. In the reply filed on behalf of the respondents two preliminary objections were raised. The first objection is regarding the jurisdiction of this Tribunal as according to the respondents the incident involved in the present petition occurred at Siwan in the State of Bihar. The penalty of removal from service was passed by the Divisional Railway Manager, Samastipur which is also situated in the State of Bihar. However the appellate order was passed by the Chief Commercial Supdt. North Eastern Railway at Gorakhpur. The second objection raised by the respondents is that the impugned order is dated 17.6.1983 whereas this petition was filed on 25.6.86. The applicant had filed an application for condonation of delay which was kept pending for consideration at the time of final hearing when the case was admitted for adjudication.

4. We have heard the arguments of the learned counsel for the parties and carefully perused the documents on record. On going through the documents filed by the applicant it is noticed that the memorandum of chargesheet dated 2.4.81 (copy Annexure-1) was served on the applicant mentioning his designation and place of posting as TTE/GKP(E). Similarly the appellate order dated 17.6.83 is also addressed to the applicant at his address at Gorakhpur. The appellate order was passed by the Chief Commercial Supdt. N.E. Railway, Gorakhpur. Taking these facts into consideration we are of the opinion that this Tribunal has jurisdiction to entertain the present application.

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5. Regarding the second objection of the respondents we find that the Administrative Tribunals Act XIII of 1985 came into force with effect from 1.12.1985. According to Sub Clause (a) of Clause (2) of Section 21 of the Administrative Tribunals Act an application should have been filed within three years of the date of receipt of the impugned order. The application was filed on 25.6.1986 and the impugned order is dated 17.6.83. There is a gap of 8 days between the expiry of three years from the date of final order and the date on which the application was filed in this Tribunal with an application for condonation of delay. We are of the opinion that the cause shown for the slight delay in filing the application is sufficient and accordingly the delay is condoned.

6. The learned counsel for the applicant laid great emphasis on the fact that the applicant was not supplied with a copy of the reservation chart for 18.1.81 relied upon by the respondents in the enquiry report. He also contended that none of the two complainants of the incident were produced before the Inquiry Officer and the enquiry report is thus biased and unfit for placing any reliance. The learned counsel for the respondents contended that the applicant was given full opportunity to inspect the reservation chart and to cross examine the prosecution witnesses produced in the enquiry. It was also contended that the Inquiry Officer made his best efforts to obtain the evidence of the two complainants but failed to do so. The learned counsel for the applicant

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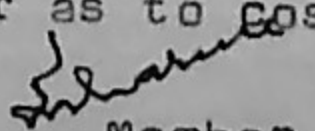
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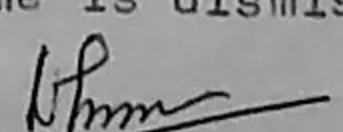
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emphasized that the findings of the Inquiry Officer were based on insufficient evidence in support of the allegations contained in the memo of charges. On going through the enquiry report we find that the Inquiry Officer has given a detailed report after analysing the evidence produced by the parties and come to the conclusion that the applicant failed to maintain absolute integrity and devotion to duty causing loss to railway revenue by way of booking five seats instead of five berths in favour of passengers who travelled during night hours and to escape detection he did not make necessary entries in the reservation chart. The conduct of the applicant was in violation of Rule 3(i)(i) and Rule 3(i)(ii) of the Railway Servants (Conduct) Rules, 1966. The disciplinary authority accepted the findings of the Inquiry Officer and imposed the penalty of removal from service. The consideration of sufficiency of evidence in departmental enquiry is beyond scrutiny of this Tribunal. We find support for this view in the case of State of Haryana and Another Vs. Ratan Singh AIR 1977 SC 1512 wherein it has been held in the case of a Bus Conductor of a State Transport Undertaking that the evidence of the Inspector was some evidence which had relevance to the charge against the Bus Conductor and the order of termination of services was a valid order. We are also of the opinion that there is no irregularity or illegality in the holding of the enquiry.

7. On the facts and circumstances of the case, there is no merit in the application and the same is dismissed with no order as to cost.

  
Member (J)

  
Member (A)

Dt: 28<sup>th</sup> Feb., 1989.  
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