

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION NO.1064 of 1986(T)

Rama Shanker Lal Vs. Union of India

Hon'ble D.S.Misra-AM

Hon'ble G.S.Sharma-JM

( delivered by Hon'ble D.S.Misra )

This is an original suit no.161 of 1985 which was pending in the court of Munsif(City) Kanpur and has come on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The plaintiff's case is that he was working as Box Porter in the scale of Rs.196-232 in the Northern Railway at Kanpur; that on 13.9.1980 he was on duty from 'O' to '8' hours; that at about 7 hours, Sri Ram Deo Ram AEFO came in the area office in a very angry mood and questioned the plaintiff about his whereabouts since 0545 Hrs.; that Sri Ram Deo Ram questioned the plaintiff regarding his failure to load the Box of Driver Ram Lal and the plaintiff replied that as per instructions of the Driver, his assistant was to arrive for loading the Box and because the Assistant did not arrive, the box was not loaded; that Sri Ram Deo Ram asked the plaintiff to leave the room but since the plaintiff was doing work, he did not go out and then Sri Ram Deo Ram picked the plaintiff by collar outside the office and on his false report the plaintiff was placed under suspension w.e.f. 13.9.1980 and a chargesheet <sup>be</sup> was served on him by an order dated 6.11.1980;



that the inquiry conducted by the Inquiry Officer was not in accordance with D&A Rules as the plaintiff was not supplied copy of fact finding report dated 10.10.1980 and copies of statements of witnesses examined during fact finding proceedings; that the findings of the Inquiry Officer were not based on the evidence on record and the Inquiry Officer was biased and prejudiced and therefore, he did not place reliance on the statement of defence witnesses. The disciplinary authority also did not follow the D&A Rules and imposed the penalty without giving the plaintiff an opportunity of hearing and that the appellate Authority also did not follow the rules while deciding his appeal.

3. In the reply filed on behalf of the defendants, it is stated that the plaintiff was required to be present on duty for 8 hours, but he absconded from duty from 5.45 to 7.00 hours, causing set back in operational performances; that the plaintiff was unable to explain his whereabouts during the above-mentioned hours on 13.9.1980; that the plaintiff used abusive language for his superior and when he was asked to leave the office immediately he remained present in the office room and threw a challenge to the ATFO to come out of the room when plaintiff would teach him a lesson; that it is incorrect to say that Sri Raj Deo Ram picked the plaintiff's collar outside the office; that in the inquiry held into the conduct of the plaintiff all relevant documents as per rules were supplied to him and the acknowledgement of the plaintiff is on record; that the plaintiff did not ask for any other record and the plea of non-

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supplying the relevant documents was not taken by the plaintiff during the inquiry proceedings; that the D&R inquiry was conducted by the competent authority and every reasonable opportunity was provided to the plaintiff; that the findings of the inquiry are based on evidence on record and all the witnesses examined have fully supported the case of the prosecution; that it is incorrect to say that the Inquiry Officer was biased and prejudiced against the plaintiff and that the plaintiff was not provided reasonable opportunity to defend himself; that the appeal of the plaintiff was rightly rejected by the appellate authority, who had considered the inquiry report and the order of the Disciplinary Authority; that the reviewing authority (DRM, Allahabad) passed orders after thoroughly considering the case of the plaintiff before rejecting the review application.

4. We have heard learned counsel for the parties and have also gone through the record of the case. Learned counsel for the plaintiff's first argument was that the disciplinary proceedings were illegal as the plaintiff was not supplied with the copies of the statements of witnesses recorded in the preliminary inquiry. For this purpose, he relied on the case law State of Punjab Vs. Bhagat Ram, AIR, 1974 SC, 2335 in which the Hon'ble Supreme Court had observed as follows:

"It is unjust and unfair to deny the Government servant copies of statements of witnesses examined during investigation and produced at the inquiry in support of the charges levelled against the Government servant. A synopsis does not satisfy the requirements of giving the Government servant a reasonable opportunity of showing cause against the action proposed to be taken."

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In reply to this learned counsel for the defendants stated that the plaintiff had not made any such request and therefore, the same was not supplied and that under the D&A Rules, it is not necessary to supply copies of the statements of witnesses in the preliminary inquiry unless the delinquent official asks for it. The second argument of the learned counsel for the plaintiff is that the chargesheet was vague in the sense that the unparliamentary language alleged to have been used by the plaintiff has not been specified. We have gone through the original papers of D&A Rules proceedings and find that the articles of the chargesheet served on the plaintiff contain the following two charges.

i) that the said Sri Ram Shanker Lal, Box Khalasi assaulted Sri Raj Deo Ram ATFO on duty at 0.8 hours on 30.9.80 as well as used unparliamentary language, thus failed to maintain decency and devotion to duty, he has, therefore, violated Railway Servants Conduct Rules 3(1)(ii)(iii), 1966;

ii) While working as Box Khalasi in 0.8 shift on 30.9.1980 Sri Ram Shanker Lal assaulted ATFO Sri Raj Deo Ram and used unparliamentary language when the latter questioned him for absconding from duty from 5.45 to 7.00 hours. He has thus violated Railway Servants Conduct Rules 3(1)(ii)(iii) Rules.

We have considered the matter and we find that the allegations contained in the chargesheet are quite definite and also very serious in regard to to observance of discipline and Code of Conduct of a subordinate employee. The plaintiff has himself admitted in para 4 of the plaint that he was questioned about his absence from duty by Sri Raj Deo Ram, his superior officer and that when he was asked to get out,

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from the office, he did not go out of the office as he was busy in making arrangements. In our opinion, this by itself is an admission of the fact that he did not comply with the order of a superior officer. It also leads us to believe the allegation of the defendants that the plaintiff used unparliamentary language against Sri Raj Deo Ram, his immediate superior officer.

5. The next contention of the plaintiff is that the Inquiry Officer has ignored the evidence of the witnesses produced by him and has given his findings on unreliable evidence produced by the prosecution. We have examined this matter also and we find that the allegations made in the statement of Sri Raj Deo Ram before the Inquiry Officer have been substantially supported by Sri R.A. Chopra, who has stated that when he arrived in area from out pit at about 7.00 hours, he found the collar of Sri Raj Deo Ram in the hands of Sri Ram Shanker, Khalasi. Sri Chopra has also stated that Sri Ram Shanker was abusing the ATFR. Another witness Sri A.C. Trivedi, Booking Clerk, in whose office and presence the alleged incident took place has stated that the Box Porter Sri Ram Shanker Lal started abusing Sri Raj Deo Ram and that Sri Ram Shanker Lal was absent from 5.45 to 7.00 hours. Sri Bindu Khan Khalasi, who had earlier supported Sri Raj Deo Ram, stated that Sri Raj Deo Ram was the first to catch hold of the collar of the Box Porter and when confronted with the contradictory statement made by him before the inquiry, he tried to explain that he had signed the earlier report without reading it. Even the witnesses produced by the plaintiff have testified to the attempt made by the plaintiff to catch hold of the collar of Sri Raj Deo Ram and the disobedience of the superior officer. The



other contention of the plaintiff that the inquiry officer had any bias or prejudice against him has been denied by the defendants and in the absence of any reliable evidence in support of this allegation, it is not possible to accept this contention.

6. From the facts and circumstances of the case, we are of the opinion that the statements of witnesses have clearly established the charge against the plaintiff. We have considered the other points raised by the learned counsel for the plaintiff regarding illegality of the orders, passed by the disciplinary authority, appellate authority and the reviewing authority and we find that these are speaking orders, passed after due consideration of the plaintiff's case. We are of the opinion that these orders do not suffer from any illegality.

For the reasons mentioned above, there is no merit in the suit and the same is dismissed. Parties to bear their own costs.

*Wm* 30.7.87 *J.M.* 30/7/87  
A.M. J.M.

JS/30.7.87