

(12/3)

Reserved

Central Administrative Tribunal, Allahabad.

Registration T.A.No.989 of 1986
(Civil Appeal No. 81 of 1985)

Munna Lal Appellant

Vs.

Union of India
and another Respondents.

Hon. Ajay Johri, AM
Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

This appeal has been transferred to this Tribunal by the VIII Additional District Judge, Bareilly under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The plaintiff-appellant Munna Lal working as Shed Messenger (in short SM) in the Railway under the Divisional Railway Manager Izatn. respondent no.2. He was served with a charge sheet dated ^{14.3.} 28.10.1981 for a major punishment for his refusing to collect the Dak from the office of the Office Superintendent(M), by the Senior D.M.E.(Loco). He was also placed under suspension vide order dated 31.3.1981. The appellant in his reply denied the charge. His defence was two-fold ; first, he was not aware of the changes made in his duty for taking the said Dak and second, that he had not refused to take the Dak and had simply made an inquiry from the O.S.(M) about his duty to take the Dak. After necessary inquiry, the appellant was found

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of the charge and vide order dated 28.10.1981, he was removed from service by way of punishment. The appeal preferred by him was rejected by the defendant no.2 on 14.1.1983.

3. Aggrieved by this, the plaintiff filed the suit in the Court of Munsif City, Bareilly challenging his removal from service on the grounds that the disciplinary authority should not have himself conducted the disciplinary proceedings against the plaintiff under the principles of justice. The statement of witnesses were not recorded at the stage of investigation and the witnesses of the confidence of the disciplinary authority were cited as witnesses in the charge sheet and they have given the tutored statement against the plaintiff. The order of removal is a speaking order and it was passed with a biased mind in violation of the provisions of Article 311(2) of the Constitution of India. The appellate authority had also decided the appeal in a mechanical manner and the order of his removal is thus, not sustainable under the law.

4. The suit was contested on behalf of the defendant- respondents and it was pleaded by them in their written statement that the plaintiff was working as SM in the Bareilly City Loco Shed in that capacity he used to carry the Dak to the office of the Sr. D.M.E.(Loco) and the Dak of his office to the Loco Shed. On 17.3.1981 at 10.30

the O.S.(M) of the office of the DRM asked the plaintiff to take the Dak of Loco Foreman as directed by the Sr. DME (L) which was refused by the plaintiff and he thus committed an act of disobedience rendering himself liable for disciplinary action. The inquiry against the plaintiff was conducted by the Sr. DME (L) according to the rules and in conformity with the principle of natural justice and he was given full opportunity to cross-examine the witnesses and produce his own defence and the allegations of the plaintiff regarding irregularities committed in the disciplinary proceedings are false and untenable. The plaintiff was rightly removed from service on being found guilty of the offence and the appeal was rightly dismissed in accordance with law and he has no case to challenge his removal from service.

5. A replication was also filed by the plaintiff reiterating his plaint allegations and denying the allegations of the defendants made in the written statement.

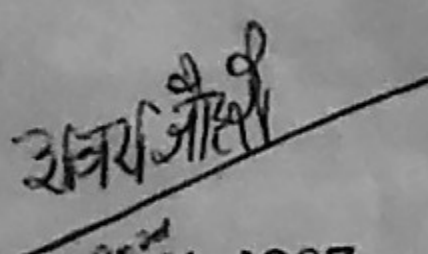
6. The trial Court had framed 8 issues in the case and it was held that the disciplinary authority was competent to conduct the inquiry himself and the plaintiff had really committed disobedience of the orders of the Office Superintendent and he was found guilty by the disciplinary authority. All proceedings taken against the plaintiff were found to be in accordance with law and the suit was accordingly dismissed. Aggrieved by the findings

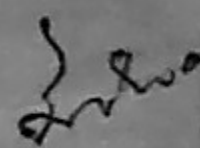
have himself conducted the inquiry and the witnesses were the witnesses of his confidence taken by the plaintiff are concerned, we find no force in the same. Under the Railway Servants (Discipline and Appeal) Rules, 1968, the disciplinary authority is under no obligation to get the enquiry conducted by any other officer. Such authority is fully competent to make the inquiry of himself. So far as the influence over the witnesses cited in the charge sheet is concerned, it is devoid of any force. Every subordinate is supposed to be under some influence of his senior officer and if the contention of the plaintiff is accepted, there will always be an instance of producing outsiders as with Outsider witnesses may not be available in most of the cases and as such, hardly any disciplinary case will ever end against any official charged therein. From the cross-examination of the witnesses examined against him, the plaintiff has not been able to show or suggest that they were not speaking the truth or they had given such statement under the influence of the disciplinary authority. We, therefore, discard these contentions of the plaintiff and in our opinion, the disciplinary proceedings did not vitiate on these grounds.

9- It appears from the reply filed by the plaintiff to the charge sheet that he was misguided by some fellow workers or outsiders. The tone of his reply is not submissive and there is some inconsistency in the stand taken by him in the reply and in the sub-

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11. The appeal is accordingly allowed in part and the punishment of removal from service awarded to the plaintiff is hereby set aside and he is awarded the punishment of stoppage of 2 (two) increments with cumulative effect. The plaintiff may be reinstated from the date he reports for duty. The plaintiff however, not be entitled to any salary for the period of his absence i.e. from the date of his removal from service till the date of his reinstatement. The parties shall bear their own costs throughout.


23.4.1987
MEMBER (A)


23.4.19
MEMBER

Dated 23.4.1987
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