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Reserved

Central Administrative Tribunal, Allahabad.

Registration T.A.No.1106 of 1986
(Original Suit No.860 of 1983)

H.N.Sonkar Plaintiff

Vs.

Union of India and
two others Defendants.

Hon.D.S.Misra, AM
Hon. G.S.Sharma,JM

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

This suit has been received on transfer
under Section 29 of the Administrative Tribunals
Act XIII of 1985 from the Court of Munsif City
Kanpur.

2. The plaintiff has challenged in this case
the order dated 11.8.1981 passed by the defendant
no.3 withholding his one increment without post-
poning future increment by way of penalty in a
disciplinary proceeding and the order dated 2.8.82
dismissing his appeal. The relevant facts of the
case are that from Sept.1978 to Dec.6,1979, the
plaintiff was posted as Chief Goods Superintendent
(in short C.G.S) Cooperganj, Kanpur and on his
transfer to Panki, he was succeeded by Sri Pati Ram.
After the transfer of the plaintiff, some original
railway receipts, delivery book of S.E.Railway,^{to}
the relative gate pass book and relative gate
register of 1976, which were kept in the custody
of CGS, were required in connection with some

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vigilence inquiry by Sri Bal Krishna Tewari, Inspector U.P. Vigilence Establishment, Kanpur and on examination some of original railway receipts of 18.3.1976, 30.3.1976, 1.4.1976 and 5.4.1976 ; delivery book of S.E.Railway for March 1976; relative gate pass book and gate register were found missing. The plaintiff and his successor Pati Ram both were charge sheeted for the same in 1981 and a charge sheet of minor punishment dated 16.5.1981 was served on the plaintiff. In his defence, the plaintiff had filed his reply stating that the documents found missing did not relate to his period of posting as CGS and after handing over the charge he is not responsible for the same. After considering the reply of the plaintiff and the relevant record, the defendant no.3 vide his order dated 11.8.1981 awarded the punishment of withholding one increment to the plaintiff. The appeal preferred by him was dismissed by the ^{A.D.R.M.} defendant no.3 on 2.8.1982. It appears from the order of the appellate authority that the increments of Pati Ram were stopped for two years and his penalty was reduced to 6 months with the observation that the fault of Pati Ram was in no way more than the plaintiff. The review petition moved by the plaintiff was dismissed by defendant no.3 on 20.11.1982.

3. After serving the notice under Section 80 of the Code of Civil Procedure, the plaintiff filed this suit for setting aside the punishment awarded to him with the allegations that the impugned order of punishment

(A.M.)

is not based on any evidence. It is arbitrary and against the principles of natural justice. The plaintiff could not be held guilty of the misconduct in respect of any act prior to his posting as CGS. As the orders of punishment cast clouds on his career, the same is liable to be set aside.

4. The suit has been contested on behalf of the defendants and in the written statement filed on their behalf, it has been stated that the plaintiff was responsible for the missing documents and his responsibility to the charge framed against him was fixed according to the provisions of Railway Servants (Discipline and Appeal) Rules, 1968 (hereinafter referred to as the D.A.Rules) and he has been rightly punished for the misconduct committed by him and there is no force in the case taken up by the plaintiff.

5. At the time of arguments before us, the main point canvassed on behalf of the plaintiff was that the missing documents were of 1976 while the plaintiff was posted as CGS from Sept. 1978 to Dec. 6, 1979 and he could not be held responsible for their loss. It has also been contended that the disciplinary authority did not get any proper inquiry held before awarding the punishment and the plaintiff was not given an opportunity to defend himself. The contention of the plaintiff, therefore, was that he has been punished without affording him an opportunity of hearing for alleged misconduct which was, in fact, not committed by him.

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6. We have carefully considered the contentions raised on behalf of the plaintiff but do not find much force in the same. The plaintiff was served with a charge sheet for minor punishment and under Rule 11 of the DA Rules, it is not mandatory in the case of minor punishment that there should be a full fledged inquiry for holding an official guilty of the charge levelled against him. The disciplinary authority has simply to make its satisfaction after considering the representation of the charged official as to whether the charge against him is prima-facie established. We have, therefore, to make our satisfaction as to whether the plaintiff was punished for sufficient cause or without any evidence whatsoever and we can interfere only if we find that there was no evidence against the plaintiff to substantiate the charge.

7. We have already pointed out that the plaintiff and his successor Pati Ram both were proceeded against in connection with missing documents mentioned above. Pati Ram was also punished though he had taken over charge of the post even after the plaintiff and the missing documents were of 1976. We find a very relevant and important document on record which clinches the matter on the point in issue. It is his own representation to the defendant no.2, paper no.10 of his list 23-C. In paragraph 3 of this representation, it was represented by the

plaintiff that probably on 30.10.1979 on the report of missing of certain records he immediately took action and initiated an inquiry from the record keeper but the result was not put up to him for further action and the letter seeking enquiry was retained by the staff. In paragraph 4, it was stated that the CGS is not responsible for the missing documents as the records are not kept by him in his personal custody. In this way, the plaintiff admitted in his own representation that he had known about the missing of some documents on 30.10.1979 before he had handed over the charge of the CGS on 6.12.1979.

8. It appears from the statement of imputation of misconduct and misbehaviour against the plaintiff paper no.25-A on record, that the charge levelled against him is very comprehensive. Besides the charge of loss of documents, he was also charged for his failing to bring the facts of criminal tampering with the records to the notice of Chief Goods Superintendent/CPC and thus he himself failed to enquire into the offence and also blocked the inquiry by higher authorities. In this way, the plaintiff was also charged for his failing to take suitable action against the guilty officials of his Section on knowing that some documents were missing or tampered with. The plaintiff did take some half-hearted steps against them but did not pursue the

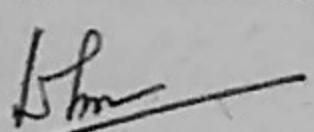
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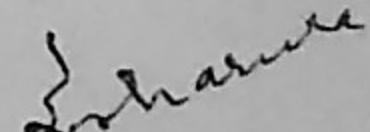
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matter after initiating the action on 30.10.1979. There is nothing on record that he had briefed his successor about this matter to pursue the same for tracing the missing records and fixing responsibility of the officials at fault. The own conduct of the plaintiff, thus, proves him guilty. The disciplinary authority ^{could} ~~can~~ be in a better position to know about the real facts and as such, it cannot be said that the plaintiff was punished without any evidence whatsoever. In the order of review, paper no.36-A, the defendant no.3 has specifically taken these facts into consideration and as such, we do not agree with the contentions raised on behalf of the plaintiff.

9. Regarding the quantum of punishment, we are however, of the view that the ends of justice may be served if the punishment awarded to the plaintiff is reduced to withholding of increment for 6 months only, as done in the case of his successor Pati Ram, without postponing future increments. There is no other scope for interference in this case.

10. The claim of the plaintiff is accordingly allowed in part and the punishment of withholding his increment for one year is reduced to a period of six months only without postponing future increments. The parties shall bear their own costs.


21.4.1987
MEMBER (A)


21.4.1987
MEMBER (J)

Dated 21.4.1987
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