

A3
1

Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.1606 of 1986
(O.S. No.596 of 1984 of the Court of Munsif, Agra)
Bhupendra Nath Upadhyay Petitioner

Versus

Union of India & Others Opposite Parties.

Hon. Justice Kamleshwar Nath, V.C.
Hon. K. Obayya, Member (A)

(By Hon. Justice K. Nath, V.C.)

The Regular Civil Suit described above is before this Tribunal under Section 29 of the Administrative Tribunals Act, 1985 for quashing orders of punishment contained in Annexure-SRA-II dated 16.11.79 and of further enhancement thereof by order Annexure-SRA-III dated 6.12.80.

2. The plaintiff-petitioner was working as Travelling Ticket Examiner when he is alleged to have accepted Rs.2/- on 22.10.77 from a railway passenger Shri Ram Hari without issuing receipt to the passenger. A memo of charges dated 29.3.78 was framed against him for lack of integrity in respect of the incident. He submitted a reply on 10.4.78. The Inquiry Officer submitted a report dated 7.5.79 to the disciplinary authority. Annexure-SRA-I is the statement of the conclusions drawn by the Inquiry Officer. It says that the evidence on record was insufficient to sustain the charge. It was recorded that the passenger Shri Ram Hari had submitted a written answer dated 17.2.79, to the Inquiry Officer's letter of query dated 30.1.79, that his statement which constitutes the complaint had been forcibly

A3/2

taken by two Inspectors and that he was not prepared to make any statement in the course of enquiry. His findings are contained in Annexure-IV to the Rejoinder where he said that the plaintiff-petitioner was not proved to be guilty of the charges levelled against him under the memorandum of charges dated 29.3.78. The disciplinary authority however mentioned in his order dated 16.11.79 that he had carefully considered the enquiry report and the findings of the Inquiry Officer and said that he held the plaintiff-petitioner to be guilty of the charges of the misconduct and misbehaviour and imposed a penalty of reduction in the time scale of pay from the stage of Rs.350/- to Rs.330/- for a period of two years with the stipulation that the reduction would not have any effect of postponing further increments.

3. It appears that the Reviewing Authority ~~acted~~ ^{acted} suo moto under Rule 25 of the Indian Railway Servants (Discipline & Appeal) Rules, 1968. He issued a show cause notice to the plaintiff-petitioner why the punishment awarded to him may not be enhanced. The plaintiff-petitioner made a representation dated 27.2.80. The Reviewing Authority thereupon passed an order dated 6.12.80 contained in Annexure-SRA-III and held that he did not find the plaintiff-petitioner's representation to be satisfactory and consequently held him guilty of the charge of misconduct. He maintained the punishment of reduction to a lower stage in the time scale of pay for two years, and enhanced the punishment in so far as he directed that the reduction will have effect of

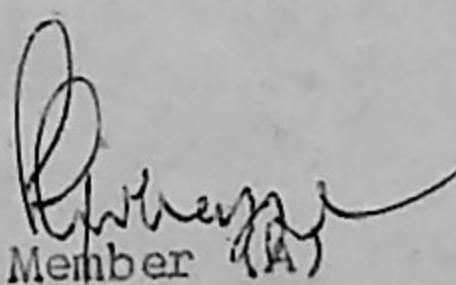
postponing future increments as well.

4. The case of the plaintiff-petitioner is that there was no evidence on the basis of which the disciplinary authority could have found the charges proved and that neither the disciplinary authority nor the Reviewing Authority recorded any reason for finding the plaintiff-petitioner to be guilty or to be liable to be punished.

5. We have heard the learned counsel for the plaintiff-petitioner. We find nothing in reply from the opposite side to be worthwhile. We have carefully gone through the record and we find that this Suit must succeed. The Inquiry Officer had recorded in unmistakable terms both in statement of conclusions and in the findings that the charge was not proved and that even the complainant had refused to give evidence in support of the complaint. The complainant was not even examined in the course of the enquiry. With this clear finding of the Inquiry Officer, it was a clear duty of the disciplinary authority to have recorded his own reasons for differing from the findings of the Inquiry Officer. The provisions of Rule 10(3) of the Indian Railway Servants (Discipline & Appeal) Rules, 1968 are clear and mandatory on this aspect of the enquiry. The disciplinary authority just made a bald statement that he found the plaintiff-petitioner to be guilty of the charge. The Reviewing Authority fell into the same error and although he had taken care

to issue a notice of enhancement to the plaintiff-petitioner, he recorded no reasons either for holding the representation of the plaintiff-petitioner to be unsatisfactory or the charge to be proved. Both the impugned orders are clearly in violation of the statutory provisions of the Discipline & Appeal Rules as also the normal principle of natural justice to record reasons for an adverse finding.

6. The Suit/petition is allowed and the impugned orders dated 16.11.79 contained in Annexure-SRA-II and dated 6.12.80 contained in Annexure-SRA-III are quashed. The plaintiff-petitioner shall be deemed to have been entitled to his salary which he was drawing at the time of the initial punishment and shall be allowed such benefits of his service ^{and salary} as may be admissible under the law.


Member (A)


Vice Chairman

Dated the 11th May, 1990.

RKM