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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A.No. 127 of 1987

Brinda Ban Srivastava Applicant

Versus

Union of India & Others Respondents.

Hon. G.S. Sharma, J.M.
Hon. K.J. Raman, A.M.

(By Hon. K.J. Raman, A.M.)

This is an application under Section 19 of the Administrative Tribunals Act, ~~XIII~~¹⁹⁸⁵ of 1985 by the applicant who was a Ticket Collector in the Northern Railway, Allahabad, against the orders dated 12.1.1987 passed by the Assistant Commercial Supdt., Northern Railway, Allahabad reducing the applicant from the post of Ticket Collector to the post of Porter having a lower grade of pay, for three years. The main contention of the applicant in the application as well as during the oral arguments ^{was} ~~was~~ that the Assistant Commercial Supdt. who had passed the said order reducing the applicant in rank, was neither the appointing authority nor the disciplinary authority competent to pass such order. According to the applicant, the Senior Divisional Commercial Supdt. was the appointing authority with such powers. In this connection the applicant has annexed some punishment orders passed by the Senior Divisional Commercial Supdt.

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It is further contended that the impugned order is hit by Article 311 (1) of the Constitution of India. The other major contention is that the Inquiry Officer was biased and reasonable opportunity was not given to the applicant to defend his case. It is therefore prayed by the applicant that the said order of punishment be declared as without jurisdiction.

2. In ^{the 192} reply filed on behalf of the respondents, the allegations contained in the application are denied. It is particularly stated that ^{the} copies of the relevant documents on the basis of which the chargesheet was issued were ~~not~~ supplied to the applicant and that the enquiry was conducted properly and that the Inquiry Officer was not biased or prejudiced. ¹⁹² It is clearly averred that the Assistant Commercial Supdt. is ^a ~~the~~ competent authority to pass the impugned order and that the contrary allegations are misconceived. The respondents have further contended that the applicant had not exhausted ^{the} ~~the~~ departmental remedy of filing appeal and as such the petition is liable to be dismissed on this ground alone.

3. In the rejoinder filed by the applicant the original assertions are reiterated and the ~~documents~~ ^{facts} contained in the reply are denied. It is in particular ~~alleged~~ ^{alleged} that the impugned order of punishment is ab initio void for the reasons stated earlier. During the oral arguments the respective positions were reiterated. It is found from the records that the question of

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exhausting available remedies was noticed. Nonetheless the admitted application was admitted. The application having been, this ^{W.C.} objection cannot be raised anymore.

4. As regards the correct disciplinary authority, during the oral arguments, the learned counsel for the respondents showed a copy of Railway Board's letter No.E(D&A)PG RGS-45 dated 13.6.85 under which the various disciplinary authorities for different levels of Govt. servants are indicated in a tabular form. It was argued that for the purpose of reduction to a lower post or lower time scale, the authority competent to pass such an order was shown in Col.3 which shows "Sr. Scale Officers and Assistant Officers (Junior Scale and Group 'B') holding independant charge" in respect of Group 'C' staff to which category the applicant belongs. On the other hand, no specific order has been referred to or produced on behalf of the applicant to show that the Assistant Commercial Supdt. was not the competent authority for imposing this particular punishment. In the absence of any evidence to the contrary, adduced on behalf of the applicant, one has to accept the position as stated on behalf of the respondents. ^(Q1)
The arguments on behalf of the applicant that Article 311(1) is ^{W.C.} violated, is misconceived as there is no dismissal or removal involved in the impugned order.

5. On perusal of the enquiry report and the order passed and taking in into account the arguments on both the sides, it is found that there are no grounds for the allegation that the principles of natural justice were not observed in this case or the applicant was not afforded reasonable opportunity to defend himself. There is also no evidence to show that the Inquiry Officer was biased, since all that he is alleged to have done is to have conducted another enquiry against the

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applicant. In these circumstances, there are no grounds justifying interference with the order passed in the disciplinary case. The application is accordingly dismissed without any order as to cost.

John Cannon

Member(A)

John Barnes

Member(J)

Dated: the 21st Feb. 1989.

RKM