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Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

v....

Registration O.A. No. 257 of 1988

V.S. Sachan Applicant.

Versus

Union of India Respondents.
and others

Hon. Mr. Maharaj-Din, Member(J)

Hon. Mr. S. Das Gupta, Member(A)

(By Hon. Mr. S. Das Gupta, Member(A))

In this O.A. No. 257 of 1988 filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant has prayed for quashing of the order dated 1.8.1986 (Annexure- A 5) passed by the disciplinary authority withholding the increment of the petitioner for three years and also the appellate order dated 8.1.1987 (Annexure- A 7) and the Revisional Order dated 21.1.1988 (Annexure- A 8) upholding the penalty imposed by the disciplinary authority.

2. The brief facts of the case are that the petitioner has joined the Railway Service as Clerk and by virtue of promotion from time to time he is now posted as Head Clerk under Carriage and Wagon Superintendent (D.S.I) for short, Eastern Railway, Mughalsarai. The petitioner was incharge of the Store Down Sickline. He was responsible for receipt, issue and proper ledger maintenance of the store. The petitioner was placed under suspension w.e.f. 28.5.1986 as the disciplinary proceedings were contemplated against him. The suspension was revoked w.e.f. 12.6.1986 and the

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petitioner was given minor penalty of charge-memo (Annexure- A 3) for his alleged lapses in collection of white metal from the Store Van which had come from Jamalpur. Subsequently, after taking into consideration his reply to the charge-memo (Annexure-A 4) the disciplinary authority imposed a minor penalty of withholding of increments for a period of 3 years. This penalty was upheld by the appellate authority and was also upheld on revision. It is this order of disciplinary authority as well as the orders of appeal and revision which are under challenged in this petition.

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3. The petitioner has taken a plea that the charge-memo was issued to him as he had claimed due wages for the period of suspension during which he was paid subsistence allowance equivalent to half pay. He has contended that the charge-sheet is unwarranted, vague and concocted. He has also challenged the impugned orders as non-speaking.

4. I have heard the counsel for both the and carefully perused the record.

5. The charge leveled against the petitioner was quite specific. It was alleged therein that the petitioner had deputed another clerk for collection of white metal from the Store Van inspite of doing it himself. Moreover, it was alleged that the clerk so deputed did not do any accounting before taking the material and thus it was clear that the petitioner

who was incharge did not explain the correct procedure to the clerk who was deputed by him.

The petitioner has not denied that he was incharge of ~~store~~ ^{but} ~~staff who~~ has taken the plea that he could not go to collect white metal leaving the store and hence, another clerk was deputed for this purpose. He had also taken a plea that the other clerk was deputed not by him but by one J.K. Verma (C.W.S(D.L.S.)) The petitioner has not ~~ever~~ been able to produce any record or evidence in support of this contention. I am unable to accept the contention of the petitioner that the charges levelled against him were vague, manipulated or concocted.

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6. The procedure for imposition of minor penalty does not make it obligatory ~~for~~ ^{by} the disciplinary authority to hold an enquiry. Rule-11 of the Railway Servant (Discipline & Appeal) Rules 1968 provides that the minor penalty can be imposed after informing the Railway Servant in writing of " the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity ^{for} making such a representation as he may wish to make against the proposal. An enquiry into the charges may be held only ^{when} ~~whether~~ the disciplinary authority is of the opinion that such enquiry is necessary. The relevant rules, therefore, have not been violated in this case since the petitioner was given a charge-memo that ~~contained~~ ^{was}

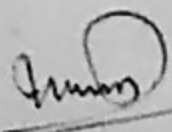
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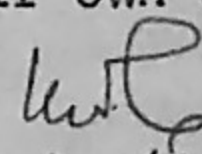
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imputation of mis-conduct and was given an opportunity to submit his representation and the order of penalty was issued after taking into consideration his representation.

7. As regards the petitioner's plea that the impugned orders are non-speaking, I am unable to accept the same sinceⁱⁿ all these orders, the respective authorities have communicated the reasons, for passing such orders.

8. ~~In with~~ the result, the petition fails and hence, dismissed. Parties shall bear their own costs.


(Member (A))


Member (A)

Dated: 24 December, 1993

(n.u.)