

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 389 of 1988

Sarj u Prasad

• • • • •

Applicant

Versus

Union of India
and Others

⋮ ⋮ ⋮ ⋮ ⋮ ⋮ ⋮

Respondents

Hon'ble Mr. Maharaj Din, Member 'J'
Hon'ble Mr. K. Muthukumar, Member 'A'

(By Hon'ble Mr. K. Muthukumar, Member 'A')

The applicant in this case has prayed for declaration of the punishment order dated 13.8.87 (Annexure-6) of the disciplinary authorities imposing the penalty of withholding of his increments for a period of 3 years, which will not have the effect of postponing his future increments, and the appellate authorities' order dated 15.10.87 (Annexure-VIII) rejecting his appeal as null and void ^{and} has also prayed for issue of a declaration directing the respondents not to give ^{effect} to the above orders.

2. The facts in this case are that the applicant, while working as Section Controller, Banda (Central Railway) was charged with the neglect and carelessness in the discharge of his duties as he left the Control Board at 09.00 hours on 18.7.87 without handing over charge to his reliever who arrived at the Control Office at 09.35 hours, and he did not write any diary for his duty. His representation in reply to the charge sheet was not found to be satisfactory

.....pg 2/-

✓

A2
1/2

(8)

reply to the charge sheet was not found to be satisfactory by the disciplinary authority who held him guilty of the article of charge and imposed the penalty aforesaid. On appeal, the appellate authority passed the order stating that the " D.S.O. was present at control office alongwith A.O./BNDA. The DE or his relief were absent and as such the appeal of DE is rejected." It is seen

3. It is seen from the record placed before us that the appellate authority has taken into account the report of the inspection of the control office by the Divisional Safety Officer(D.S.O.) along with Area Officer at Banda on 18.7.87 and 19.7.87(Annexure-I, to the written statement filed by the respondents).

4. During the course of arguments, learned counsel for the applicant referred to the diary entries of the applicant's reliever(Mr. Shukla) on 18.7.87(Annexure-VII) which noted that, that the petitioner had given charge to the reliever and the duty time was indicated as 09.00 hours to 17.00/7.00 hours and therefore contended ^{that} the charge levelled against the applicant was unjust and on misrepresentation of facts. Learned counsel for the respondents, however, argued by pointing that no reliance can be placed on the diary of the reliever, as the D.S.O. himself had not found any entry at the time of his physical inspection and the diary filled in

// 3 //

AR
13

(9)

in by the reliever at a later stage was only a cover action and that the D.S.O. has also found the reliever absent on duty and hence his diary could not be relied upon.

5. We have heard the arguments of the learned counsel for the parties and also seen the facts on record.

6. It is seen that the D.S.O.'s inspection report has specifically drawn attention to the fact that the applicant working 01.00 to 09.00 hours on 18.7.87 left the control at 09.00 hours whereas his reliever turned up at 09.35 hours and that he (D.S.O.) brought out the seriousness of the matter in that, the trains were left uncontrolled and that action should be taken to improve the working of BNDA Control Office. He had also pointed out the absence of maintenance of the relevant documents in the control office. From this it is evident that the inspection by the appropriate authority has specifically pointed out that the applicant having left the control at 09.00 hours without handing over the charge to his reliever who also turned up at 09.35 hours instead of at 09.00 hours.

7. In regard to learned counsel for the applicant's reliance on the diary by the reliever, learned counsel for the respondents has cautioned

2/26

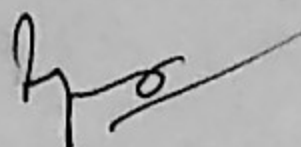
against placing reliance on this as the reliever himself was also an ~~interested~~ party and was equally blame-worthy on the basis of D.S.O.'s report. Even so, when we looked at the entries in the diary, it is seen that the reliever had simply noted his duty hours at the top without indicating the exact time at which he took over charge from the applicant and ~~has also~~ ~~un~~significantly, he had also recorded that inspection was done by the D.S.O. and that all that the D.S.O. had stated was correct. In the light of this, the diary entries of the reliever do not come to the aid of the applicant. Considering the nature of duties of the applicant at the control office which are important for the control of movement of trains, the D.S.O.'s inspection report pointing out the specific lapse of the applicant cannot be overlooked by the disciplinary authority as well as the appellate authority. We do not find any arbitrariness or illegality in the disciplinary proceedings to merit setting aside these orders. As Hon'ble Supreme Court observed in Union of India Vs. Upendra Singh JT 1994(1) SC658 "Tribunals" Judicial review, is not an appeal from a decision, but a review of the manner in which the decision is made."

8. We find that the disciplinary authority/ appellate authority have rightly relied upon the D.S.O's inspection report which has specifically brought out the applicant's leaving the control at 09.00 hours when the reliever had not turned up.

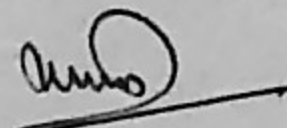
// 5 //

AD
11

9. In the light of the above discussion, we find no justification to interfere with the orders of the disciplinary authority and the appellate authority and we accordingly dismissed the application on merits. There will be no order as to costs.



Member 'A'



Member 'J'

Allahabad, Dated 13th July, 1994

/M.M./