

Reserved

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 3rd day of November 1995
Original Application No.66 of 1988

DISTRICT : CHUNAR

QUORUM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Abdul Wahid, Khalasi,

Working under Train Examiner

Northern Railway, Chunar.

(By Shri PK Kashyap, Advocate)

. Applicant

Versus

1. The Union of India through
The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Allahabad.
3. The Senior Divisional Personnel Officer,
Northern Railway, Allahabad.

(By Shri GP Agarwal, Advocate)

. Respondents

O R D E R

By Hon'ble Mr. S. Das Gupta, A.M.

The applicant in this case has challenged the order dated 23-5-1984 passed by the disciplinary authority by which the applicant was reverted to the post of Khalasi for 10 years and also the appellate order dated 21-9-1987 by which the said penalty was moderated

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to that of reduction to the grade of Khalasi for 5 years. It has been prayed that both the orders be set aside with consequential benefits.

2. The applicant was working as a highly skilled fitter in Northern Railway, Mirzapur. A charge memo. dated 22-7-1983 for major penalty was served on him by the Senior Divisional Mechanical Engineer, Allahabad alleging that he had manhandled one Shri S.K. Lal Srivastava, the Head TMR in a drunken state. An inquiry was held and the Inquiry Officer found the charge against the applicant as established. The disciplinary authority suspended him and imposed penalty of reversion to the post of Khalasi for 10 years by the impugned order dated 23-5-1984. This order was challenged by the applicant by filing a suit which was later transferred to this Tribunal and renumbered as T.A. No.960 of 1985. This transfer application was disposed of with a direction to the respondents to consider the appeal of the applicant against the penalty of reversion after giving him a personal hearing and to pass orders thereon. Thereafter, by the impugned order dated 21-9-1987 the appellate authority held that the penalty imposed was excessive and, therefore, moderated the same to that of reduction by 5 years. The order of the disciplinary authority has been challenged on several grounds. In the first place, it has been argued that the applicant was not given adequate opportunity to defend himself inasmuch as he was ^{not supplied} Hindi version of certified documents and that the Inquiry Officer held the session of the proceedings on 7-3-1984 in the

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absence of the applicant. Consequently, it has been argued that the findings of the Inquiry Officer are perverse as most of the witnesses did not say that the applicant was in a drunken state or that he has manhandled Shri S.K. Lal Srivastava. Yet another ground taken by the applicant is that he was not posted at Allahabad on the date ^{/of} the alleged incident and the Inquiry Officer was acting under the undue influence of the Sr. Divisional Mechanical Engineer. The appellate order has been challenged on the ground that the same does not indicate the application of mind by the appellate authority and is a mere mechanical reproduction of the appeal rules.

3. The respondents have filed a counter reply which is extremely laconic and is hardly of any assistance in arriving at a decision in this case. In the preamble to the reply it has been stated that the respondents have complied with the directions given by the Tribunal in T.A. No.960/95 and there is nothing further left for adjudication. The ~~facts~~ ^{not} of the ~~above~~ ^{averments} are either bald denial of the averments in the O.A. or remarks to the effect that certain averments require no comments.

4. The applicant has not filed any rejoinder affidavit despite being given sufficient opportunity.

5. The challenge to the order of the disciplinary authority are mainly on three grounds as already stated in Paragraph No.2 above. The ground relating to the denial of opportunity to the applicant cannot be upheld in the absence of any document in support of such contention. The applicant has neither filed a copy of

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the letter by which he had requested for Hindi version of certified documents nor a copy of the letter by which the request was turned down. He has also not enclosed a copy of the inquiry report which could have supported his statement that he was not present on the particular date when the inquiry was conducted. This contention has been denied by the respondents. ~~All~~ ^{Though} this is a bald statement ^{of denial}. It is for the applicant to provide sufficient supporting evidence to substantiate the averments made by him. In the absence of any supporting evidence, we cannot but reject his contention in this regard.

6. ^{Regarding} The challenge on the ground that the findings of the Inquiry Officer are perverse, in the absence of the report of the inquiry, we have no means of assessing whether such an allegation is sustainable or not. This contention has been denied by the respondents. Here again it was for the applicant to prove his point by annexing a copy of the inquiry report and the statement of witnesses. In the absence of any such documents we must reject this plea also. As regards whether the applicant was at Allahabad or not, it is again a question of evidence. In the absence of the statement of witnesses, we see no reason to enter into this dispute. The allegation that the Inquiry Officer was acting under the undue influence is only a vague and ~~unsubstantiated~~ ^{unsubstantiated} allegation. We, therefore, find no reason to hold that the order of the disciplinary authority suffers from any infirmity.

7. The challenge to the appellate order is on the ground that it lacks application of mind. We have carefully gone through the ~~context~~ ^{context} of the appeal also. The very fact that the appellate authority has considered

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the penalty imposed by the disciplinary authority as excess^{we} in the facts and circumstances of the case and moderated it to some extent is evidence enough ~~of~~ the application of mind to the appeal by the appellate authority. In such a view of the matter, the appellate order, even if it is a mere reproduction of the appellate rules, cannot be interfered with. In the case of YD Parwana vs. Union of India decided by the Full Bench of the Tribunal and reported in (1993) 24 ATC(FB) 485, the Full Bench interalia upheld the appellate order which, although non-speaking, had reduced the penalty imposed on the appellant. We, therefore, see no reason to interfere with the appellate order passed in this case.

8. In view of the foregoing, we find no merit in this application and the same is accordingly dismissed. There shall, however, be no orders as to costs.

J. H. Kumar
Member (J)

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Member (A)

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