

K/  
10

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Original Application No. 1170 of 1988

Allahabad this the 29/1/96 day of Feb 1996

Hon'ble Dr. R.K. Saxena, Member ( Judicial )  
Hon'ble Mr. S. Dayal, Member ( Administrative )

R.N. Singh Bhaduria, S/o Shri Raghuraj Singh Bhaduria  
A/a 46 years, R/o 'behind Bhaba Bhawan' Isai Tola,  
Prem Nagar, Jhansi, working as Asstt. Station Master,  
Mahoba, Central Railway, Jhansi.

APPLICANT.

By Advocate Sri H.P. Chakravarty.

Versus

1. Divisional Operating Superintendent (Coaching),  
Central Railway, Jhansi.
2. Senior Divl. Operating Supdt. (M), Central  
Railway, Jhansi.

RESPONDENTS.

By Advocate Sri A.V. Srivastava.

ORDER  
-----

By Hon'ble Dr. R.K. Saxena, Member ( Jud. )

The applicant under Section 19 of the <sup>Q</sup>  
Administrative Tribunals Act, 1985 has been <sup>filed to</sup> challenged  
the order of punishment dated 23.7.86/08.9.86 (Ann.A-44)  
passed by the disciplinary authority and the order  
dated 01.10.1987 (Ann.A-6) passed by the appellate authority.

2. The facts of the case are that the applicant  
who started his career as Assistant-Pointsman in the  
year 1962 reached the stage of Assistant-Station-Master.

He was posted as Assistant-Station-Master, Karonda in the months of May and July, 1984. The allegations against the applicant is that on 18.5.84, he issued 19 Ordinary IIInd class tickets to the passengers while charging the fare of Mail/Express train from Karonda to Lalitpur. Those tickets were collected ~~at~~ <sup>at</sup> Lalitpur station and it was detected that the applicant, by his mis-conduct, cheated the passengers as well the railway administration. The other charge against him was that on 22.7.84, he reported Wagon no. ER 77170 <sup>16</sup> as unfit for loading and refused to allot wagon to the party although the same wagon was subsequently allotted by another Assistant ~~Station~~ Post Master Sri B.P. Rai. The applicant denied the charges and, therefore, the inquiry proceeded. Sri S.K. Srivastava was appointed as Inquiry-Officer. He concluded that charge no.1 was proved on preponderance of probability and charge no.2 was not proved. The disciplinary authority vide impugned order annexure A-4 passed the order of penalty whereby his salary of Rs.416/- was reduced to Rs.330/- in the scale of Rs.330-560/- for the period of 2 years. It was further directed that the reduction would have the effect of postponing further increments. This order was challenged in appeal by <sup>filling</sup> memo of appeal annexure A-5 and the appellate authority considered and modified the punishment to withholding of increment for two years with cumulative effect. Feeling aggrieved by this punishment, this O.A. with the relief as pointed out earlier, has been filed.

3. The respondents contested the O.A. on the ground that the Union of India which was necessary

party, has not been arrayed as one of the parties and that the O.A. was not within the period of limitation. It is averred that the charge-sheet was result of the inquiry which was carried out by Sri K.C. Richchariya, Senior Vigilance Inspector. The inquiry, according to the respondents, was conducted in fair manner after giving every opportunity of defence to the applicant. The respondents have also come with the plea that the charge was established and, therefore, appropriate punishment which was modified by the appellate authority, was passed.

4. The applicant filed rejoinder affidavit taking the plea that the counter-reply has not been filed by properly authorised officer and that Union of India was made a party. It is also asserted that the O.A. was filed within limitation. The plea of the applicant that it is a case which has been cooked up against him on account of Vandana because no passenger had made any complaint. However, the disciplinary authority did not apply his mind and passed the order of punishment arbitrarily.

5. We have heard Sri A.K. Dawa proxy counsel for Sri H.P. Chakravarty on behalf of the applicant and Sri A.V. Srivastava for the respondents. We have also perused the record.

6. It has been pointed out on behalf of the respondents that Union of India has not been made a party. This fact is clear from the perusal of the O.A. It is surprising that the applicant has taken the plea

A2  
4

13

in the rejoinder that Union of India has been impleaded as a party. What appears is that the learned counsel for the applicant had an impression that amendment application for making Union of India as a party, was moved some time in December, 1994 <sup>application</sup> but this fact was never disclosed before the Bench. There is no mention in the order-sheet if any amendment application was moved. This fact was brought in the order dated 19.12.95. Anyway, it is clear that Union of India was not made a party. It is a case of penalty being imposed by an officer of the employer. The Union of India is the real employer of the applicant. By not making Union of India a party, the O.A. suffers from non-joinder of necessary party.

7. The respondents have also taken the plea that the O.A. is barred by limitation. We have already pointed out that the disciplinary authority had passed the order annexure A-4 in which are depicted two dates 23.7.86 and 08.9.86. What appears that the order first was dictated or written on 23.7.86 but actually it could be completed or signed on 08.9.86. The appeal was decided by an order dated 01.10.1987. Thus, the last order was of appeal which was passed on 01.10.1987. The O.A. was preferred on 03.11.1988. Thus, there was the delay of about a month. The applicant did not file any application for condonation of delay. In our opinion, we cannot condone the

delay without any application in that respect having been made. Thus, the O.A. is also barred by limitation.

8. Now coming to the merits of the case, the <sup>main</sup> ~~single~~ point of the averment in the O.A. is that a case was cooked up against the applicant and without proper appreciation of the evidence, he was punished. In our opinion, both these points do not fall within the scope of judicial review. The disciplinary authorities are the best judges to appreciate and evaluate the evidence recorded ~~during~~ during the inquiry. We can interfere only if it is established that it was a case of no evidence or ~~if~~ perverse findings have been recorded. None of these things has occurred in this case. Thus, arguments on this point carries no weight. It is contended on behalf of the applicant that no passenger has made any complaint against the sale of tickets of a Mail train when the journey was performed by an ordinary passenger train. It appears that the applicant is under wrong notion. Even if no complaint is made by any passenger, the matter can still be investigated and the erring employee may be charge-sheeted. In this case, the tickets were sold for the journey between Karonda to Lalitpur by Sabarmati Train which ~~is~~ a passenger train. It has been argued on behalf of the respondents and it is also evident from the report of the Inquiry Officer that there was no timing of Mail train when the tickets were sold and no Mail train should stopped at the station. Despite these facts, if

:: 6 ::

15  
12/6

the tickets of the Mail train have been sold and those tickets were detected at the station where the journey was completed. Naturally the investigation <sup>are</sup> into the facts may be done. We informed by the learned counsel for the respondents that there was discrepancy of Rs.57/- and the applicant had corrected by making over-writing in the record. In case, the applicant had sold the tickets of Mail train in-advertently or by mistake, the actual sale should have been noted in the relevant register. In these circumstances even this argument that no passenger had made a complaint carries no weight.

9. All the relevant documents were made available to the applicant, no illegality in the procedure has been shown or urged. Thus, we do not see any case to interfere with the order of punishment. The O.A. is, therefore, dismissed. No order as to costs.

*Shah*  
Member ( A )

*Dundas*  
Member ( J )

/M.M./