

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

D.A. NO.: 967/89  
T.A. NO.:

DATE OF DECISION: 6-2-95

Madan Lal

PETITIONER(S)

Sri B. Tejwari

ADVOCATE FOR THE  
PETITIONER

VERSUS

U.C.I. Brothers

RESPONDENT (S)

Sri Dr. R. Agarwal

ADVOCATE OF THE  
RESPONDENTS

COURT

The Hon'ble Mr. K. Muthuprasadar A.M.

The Hon'ble Mr. J. S. Ahluwalia J.M.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether to be circulated to all other Bench?

  
SIGNATURE

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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the day 6 - 2 - of 1995.

ORIGINAL APPLICATION NO. 967 OF 1989.

Madan Lal S/o Shri Samalia, aged about 52 years,  
R/o House No. A/34, Shanti Nagar, Post Krishna Nagar,  
District-Mathura (U.P) posted and working as Head TTE  
in Central Railway at Agra Cantt, District- Agra.

By Advocate Sri B. Tewari. .... Applicant.

Versus

1. Union of India through the General Manager (v)  
Central Railway, Bombay VT (Maharashtra).

2. The Sr. Divisional Commercial Superintendent,  
Central Railway, Jhansi Division, Jhansi.

3. The Divisional Commercial Superintendent,  
Central Railway, Jhansi Division, Jhansi.

4. The Divisional Railway Manager (Personnel),  
Central Railway Jhansi Division, Jhansi.

5. Shri Rajendra Singh,  
C.O.R. JHS. (C.Rly).

By Advocate Sri G.P. Agarwal. .... Respondents.

CORAM : Hon'ble Mr. K. Muthukumar, MEMBER (A)

Hon'ble Mr. J.S. Dhaliwal, MEMBER (J)

O R D E R (RESERVED)

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

1. The applicant is Head Travelling Ticket Examiner in the Jhansi Division of the Central Railway at Agra Cantonment. He alleges in this application that on the basis of a fake complaint to the General Manager, Central Railway, by the Inspector Vigilence of the Railway Board and one another person, he was charged of having committed lapses in discharge of ~~discharge~~ of his duty. The charge was that in order to avoid the detection of excess money collected illegally from the passengers, he made imaginary details of currency notes amounting to Rs 277/- against the actual amount of Rs 310/- without physical verification of the same in the presence of the investigating Inspector and attempted to dodge the inspecting team and that he had collected Rs 33/- extra illegally as premium from 3 passengers and thus failed to maintain integrity and devotion to duty and acted in a manner unbecoming of a Railway Servant. With the above charges, the disciplinary proceedings were initiated against him and after inquiry the penalty of withholding increment raising his pay from Rs 1520/- to Rs 1560/- w.e.f. 1.1.1986 for a period of two years with cumulative effect was imposed on him by the disciplinary authority. Aggrieved by this, the applicant has prayed for an order of direction by this Tribunal for quashing the departmental inquiry and also the impugned order of punishment dated 12.4.1980 annexed as Annexure-A-2 to the application. The applicant further alleges that during the pendency of the appeal against the aforesaid order of punishment, he was passed over for his promotion to the cadre of C.O.R/ Head T.T.E in the scale of Rs 1600-2660 and, therefore, has prayed for

a direction of this Tribunal to the respondents for the promotion of the applicant to the next higher grade.

2. The main ground alleged in the application is that the Inquiry Officer had not provided any opportunity to the applicant to lead the defence evidence and to prove his innocence and also did not consider the defence evidence during the inquiry. The other grounds are that he was not supplied with the copies of the complaint, preliminary inquiry report, statement of the witnesses and other documents and that the charges were vague and indefinite and that the entire departmental proceedings were vitiated. The applicant also alleges that the Divisional Commercial Superintendent, Jhansi, had already imposed the punishment of withholding his three increments by the order dated 21.6.1985 which was set aside by the Appellate Authority but the Disciplinary Authority had revived the punishment by the impugned order dated 12.4.1988 on the basis of the same complaint.

3. The respondents have resisted the contentions of the ~~complaint~~ for the applicant and have averred that the punishment was based on the charges having been proved during the inquiry and that the applicant was afforded full opportunity as was evident in the record of the disciplinary proceedings. They have also averred that the applicant was already undergoing the punishment of withholding the increment for three years and by the impugned order of punishment, increment was further withheld for a period of two years from 1.1.1986. They have also stated that the applicant had not submitted

his appeal within the prescribed period of 45 days and, therefore, the appeal had become time barred. They have also stated that the applicant has not availed of the facility of "revision" by the Competent Departmental Authority. In view of these averments, the respondents have strongly contended that there is no basis in his application and, therefore, the application deserves to be dismissed.

4. We have heard the learned counsel for the parties and perused the record.

5. The learned counsel for the applicant argued on the following points:-

i) It is stated that at no stage, charged official was supplied with any documents and, therefore, the departmental proceedings were vitiated. He had relied on the decision in (i) Kashi Nath Dixit Vs. U.O.I ATR 1986 (2) Page 186, (ii) S.B.I Vs. D.C. Agarwal 1993 (1) SCC Page 30.

6. The applicant was passed over for promotion during the pendency of the appeal of the applicant dated 1.9.1988 against the impugned order of punishment and therefore, the denial of promotion was unjustified. We have considered this argument and we find that the applicant has not annexed his appeal dated 1.9.1988. In any case, it is obvious that since the punishment order was dated 12.4.1988 and as he was given 45 days for preferring an appeal under the Rules, the appeal dated 1.9.1988 as has been referred to by him in para 4(xxv) of his application had become time barred and, therefore, the contention

of the respondents is to be accepted.

7. The other points argued by the counsel was that the Appellate Authority namely Senior Divisional Commercial Superintendent by his order dated 17.6.1986 of withholding three increments imposed by the Disciplinary Authority on the applicant and on the same date namely 17.6.1986 issued a chargesheet against the applicant and this showed the malafide intention of the disciplinary authority. We are unable to appreciate this argument. It is not evident on record that the chargesheet dated 17.6.1986 had anything to do with the earlier punishment order dated 21.6.1985. In any case, the second chargesheet on which the impugned order of punishment was made related to vigilance inspection of his duties on 18.11.1985 and, therefore, is totally unrelated to the earlier punishment order.

8. The counsel strongly argued that the order of promotion of the Junior was issued by the Railways on 10th August 1989 when the punishment imposed on the applicant by the impugned order, imposing on him the penalty of withholding the increment w.e.f. 1.1.1986 for a period of two years, had already been completed and, therefore, the applicant also should have been promoted. The counsel also relied on the decision in *Manindra Nath Das Vs. U.O.I.* 1988 ATR(2) Calcutta CAT Page 674. We ~~did~~ not find any merit in this contention. The fact remained that at

the time of the consideration of the promotion, the applicant had been punished with the minor penalty which would have to be taken into account while assessing his fitness for promotion at the relevant point of time.

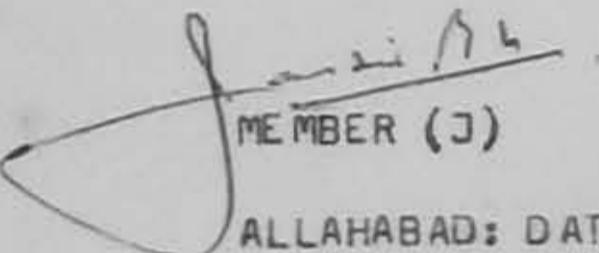
The counsel for the respondents argued that in case of minor penalty, no detailed inquiry as far imposition of major penalty is called for. However, the applicant was given full opportunity and the charges were proved on the basis of the findings of the Inquiry Officer.

The Disciplinary Authority had also agreed with the findings of the Inquiry Officer. At our instance, the counsel for the respondents produced departmental record of the disciplinary proceedings in this case. We have perused the record and we find that during the course of inquiry, the applicant himself had admitted to have inspected the documents and taken ~~an~~ extracts of the same mentioned in Annexure-3 of the Memorandum of charges and had not sought for additional documents. He had also admitted to have perused the E.F. or Books and Sleeper Coach Book mentioned as Annexure-3 of the charge memorandum and had noted down the particulars required. Therefore, the contention of the learned counsel for the applicant regarding non supply of the documents is not tenable. In view of this, we do not find it necessary to burden this judgment by referring to the decision cited by the learned counsel for the applicant, in detail. For the same reason reliance on the learned counsel for the applicant in *Manindra Nath Das Vs. U.O.I., Supta*, is not relevant.

- 7 -

9. We have already considered the rival contentions of the parties and we find that in disciplinary matters, the Tribunal does not sit as a Court of Appeal and only <sup>Itself</sup> examines to satisfy whether the decision making process has been vitiated or has been rendered illegal or is based on malafide action and whether there has been any violation of principles of natural justice. This has been well settled in law. From the averments made by the parties and also from the perusal of the record, we do not find that the decision making process has been vitiated in any manner nor has there been any bias or malafide action or denial of natural justice, by the respondents.

8. In view of this matter, we find that the application lacks in merit and is accordingly dismissed. No order as to costs.

  
MEMBER (J)

  
MEMBER (A)

ALLAHABAD: DATED: 6-2-95-

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