

Open Court

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated, Allahabad, This The 25th Day of April, 2000.

Coram: Hon'ble Mr. Rafiq Uddin, J.M.

Hon'ble Mr. M.P. Singh, A.M.

Original Application No. 1589 of 1992.

Virendra Kumar Sahu
aged about 44 years
son of Sri Dhani Ram Sabu,
Resident of 379, Sadar Bazar,
Jhansi.

. . . Applicant.

Counsel for the applicant: Sri R.K. Nigam, Adv.)

Versus

1. Union of India through General Manager,
Western Railway, Church Gate, Bombay.
2. Dy. Chief Mechanical Engineer, C.W.M's. Office,
Wagon Repair Workshop, Western Railway, Kota
(Rajasthan)
3. Production Engineer, C.W.M's. Office, Wagon Repair
Workshop, Western Railway, Kota.

. . . Respondents

Order (Open Court)

(By Hon'ble Mr. Rafiq Uddin, Member (J.)

The applicant has sought quashing of his
removal order dated 24.4.91 (Annexure A-1) and
also the appellate order dated 7.9.91 passed by
respondent No.2 the Production Engineer, C.W.M's.

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Office Wagon Repair Workshop, Western Railway, Kota and respondent No.2 Dy. Chief Mechanical Engineer, C.W.M's. Office, Wagon Repair Workshop, Western Railway, Kota (Rajasthan) (Annexure A-1 and A-2).

The applicant while working as Junior Chargeman was served with a chargesheet dated 29.8.87 by the respondent no.3 in which it was alleged that the applicant remained absent unauthorisely from duty, did not follow the medical leave rules and did not follow the directions. The departmental enquiry was conducted by Sri B.S. Dahale Asstt. Production Engineer (M.) Kota and submitted his report on 24.12.80 holding the charge levelled against the applicant as proved. The disciplinary authority on the basis of the findings of the Enquiry Officer passed the impugned removal order. The appeal filed by the applicant against the aforesaid removal order was also rejected by the respondent No.2 vide order dated 7.9.91.

2. The main grounds challenging the validity of the orders taken by the applicant are that the charge is vague and indefinite. The Enquiry Officer has acted against the principles of natural justice by not providing proper opportunity to the applicant to produce defence. The order of the Enquiry Officer is based on extraneous considerations. It is also contended that the disciplinary authority has not given show cause notice along with the copy of the enquiry report before passing the punishment order. The applicant has also preferred statutory revision application which is still pending. The order of

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the dies-non is without jurisdiction and warranted mala fide.

3. The respondents in their counter reply have opposed the application by stating that the applicant has filed standard printed form of chargesheet only and has not deliberately filed the statement of imputation of misconduct in which the details of charges levelled against the applicant are mentioned and the copy of the same has been filed as Annexure R-1. It is also clarified that on the request of the applicant made to the Enquiry Officer on 7.9.87 the particulars of the rules regarding unauthorised absence from duty and non observance of medical attendance rules were provided to him vide letter dated 22.9.87, copy thereof has been annexed as Annexure R-2. This letter was duly communicated to the applicant before commencing of the disciplinary proceedings against him which was duly acknowledged by him on 17.10.87 vide Annexure R-3. The respondents have further stated that copies of the documents relied upon and the statements of witnesses were duly attached to the chargesheet which were supplied to the applicant on 22.9.87. Respondents have also stated that applicant's representation dated 7.9.87 was also duly replied vide order dated 22.9.87 which was acknowledged by the applicant vide Annexure R-3. The respondents have denied having received any representation on 7.3.89 from the applicant regarding non supply of copy of documents to the applicants. The respondents have also denied that the enquiry officer placed any reliance on the correspondents between Chief Works Manager, Kota and Dr. V.K. Adwani, Central Railway

Hospital Jhansi. Dr. Adwani was not called as a witness because he ^{had} since retired from service.

4. The respondents have specifically stated that the report of the Enquiry Officer was duly supplied to the applicant by the Disciplinary authority which was received by him on 2.2.91 along with show cause notice which was to be replied within fifteen days from the date of communication. Copy of this show cause notice is annexed as Annexure R-4 along with acknowledgement of the petitioner which is Annexure R-5. Since the applicant did not reply to the aforesaid show cause notice within fifteen days, the disciplinary authority passed the removal order along with his own findings.

5. The respondents have also denied the claim of the applicant that he preferred any revision on 20.9.91 and the applicant has made a false statement.

6. We have heard the arguments of the learned counsel for the applicant and perused the record.

7. The applicant has alleged that the chargesheet given to him is vague and indefinite. A copy whereof has been annexed as Annexure A-1. We find from the perusal of the Annexure A-1 that it is a prescribed printed form of chargesheet given to the delinquent official. However, the respondents have refuted this allegation of the applicant by filing the statement of imputation of misconduct which is Annexure R-1 in which we find that all the particulars of charge are duly mentioned i.e. the dates and period on which the applicant remained absent

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unauthorisedly. It can therefore not be said that the chargesheet is vague or indefinite as alleged by the applicant.

8. The applicant has also alleged that the enquiry report is vitiated as the same is based on extraneous considerations. This allegation is vague and indefinite because no specific allegations has been made on behalf of the applicant against the enquiry officer on this point. Therefore we reject the contention of the applicant on this point.

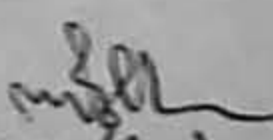
9. One of the most important argument of the learned counsel for the applicant is that the enquiry has taken into consideration the correspondence made between the Dr. V.K. Adwani, Medical Officer of Central Railway Hospital Jhansi and Chief Works Manager Kota. The respondents have however, denied this allegation and clearly stated in their C.A. that the enquiry officer has not placed any reliance on such correspondence vide para 8 of the C.A. Even Dr. Adwani who had since retired was not produced as a witness of the prosecution. Even in the enquiry report, there is no reference to any correspondence between Dr. Adwani and Chief Works Manager Kota as alleged by the applicant. Therefore, we do not find any force in this contention that the enquiry officer has placed reliance on the aforesaid correspondence. Thus this argument also does not hold good.

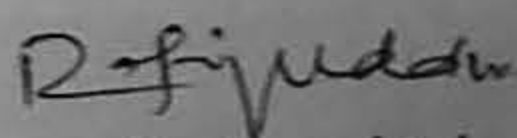
10. There is also no force in the contention that the enquiry report and show cause notice was not given to the applicant by the Disciplinary Authority before passing the punishment order because

the respondents have clearly and specifically mentioned the dates on which the said documents were provided to the applicant vide para 9 of the C.A. and copies thereof have also been annexed as Annexure R-4 and R-5 along with acknowledgement of the petitioner. Therefore this ground has no basis for challenging the report.

11. Lastly it has been urged by the learned counsel for the respondents that the revision preferred by the applicant against the penalty order still pending with the respondents. The respondents have specifically denied having received any revision from the applicant. The applicant has not filed any material or evidence to prove that any revision was filed by him. No doubt a typed copy of alleged revision has been placed on the record as Annexure A-IV but it is not proved that the same was received in the office of respondents.

12. We have gone through the record of the file that the enquiry has been conducted in proper manner. We do not find any irregularity having been committed by the Enquiry Officer. Therefore, there is no justification for interference by this Tribunal in the Disciplinary proceedings or findings given by the Enquiry Officer or the order of Appellate Authority. Accordingly O.A. is dismissed. No order as to costs.


Member (A.)


Member (J.)

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