

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 637 of 1992

Allahabad this the 28th day of August, 2000

Hon'ble Mr. S. K. I. Naqvi, Member (J)
Hon'ble Mr. M. P. Singh, Member (A)

Ram Milan Gupta, aged about 46 years, Son of Late Raja Ram Gupta, Resident of B-4-B Military Camp, Railway Colony, Juhu, Kanpur.

By Advocate Shri A. K. Sinha

Applicant

Versus

1. Union of India through the General Manager, Northern Railway, Bareda House, New Delhi.
2. Additional Divisional Railway Manager(I), N. Railway, Allahabad.
3. Sr. Divisional Operating Superintendent, Office of the Divisional Railway Manager, Northern Railway, Allahabad.

Respondents

By Advocate Shri D. C. Saxena

O R D E R (Oral)

By Hon'ble Mr. M. P. Singh, Member (A)

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 against the punishment order passed by the respondents.

2. The brief facts of the case are that the applicant was appointed as substitute Porter

grade B, 70-854(AS), on 22.2.1968. He was subsequently promoted to the post of Shunting Jamadar on regular basis on 02.5.1982. On 05.6.1985, he was suspended and also a charge sheet was issued to him for taking disciplinary action. Shri G.S. Awasthi, Dy. Chief Yard Master Juhi, Kanpur was appointed as Inquiry Officer. Shri Awasthi concluded the inquiry and submitted the report to the disciplinary authority on 03.8.87. Out of the four charges, framed against the applicant, 3 were proved as per inquiry report. The disciplinary authority after taking into account the findings of the inquiry report, passed an order dated 04.9.87 imposing the penalty of removal from service. The applicant filed an appeal dated 21.9.87 to the appellate authority i.e. respondent no.2. The appellate authority modified the punishment from removal to reducing him in the time scale of Shuntman Grade II with cumulative effect, with a further direction to review the punishment on yearly intervals. Thereafter, the applicant filed review petition to the General Manager. The Reviewing Authority further reduced the punishment to reduction as Shuntman Grade II for a period of one year permanently. Aggrieved by this, the applicant has filed this O.A. and sought the directions to quash the revisional order dated 22/27-4-1991 (annexure A-1), appellate order dated 07.4.1988 (annexure A-4) and removal order dated 04.9.1987 (annexure A-5), charge-sheet and suspension order dated 05.6.1985, and has also sought the direction to grant him all consequential benefits. He has

further sought the direction to the respondents to restore him to the same position as he was prior to 05.6.85 with all consequential benefits, with 20% interest on the arrears due to him from the due date to the date of its payment.

3. The respondents have contested the case and filed the counter reply. In the counter-reply, it is stated that the applicant while working as Shunting Jamadar at Pankip has committed serious irregularities for which he was issued major penalty charge sheet. The Deputy Chief Yard Master/GMC/ (Juhi) was appointed as Inquiry Officer to inquire into the facts of the case and ^{to} submitted its report. The Inquiry Officer concluded the inquiry and according to the findings of the inquiry report, 3 charges were proved against the applicant. The disciplinary authority after careful consideration and examination of the documents available in the file, held the applicant responsible for 3 charges and imposed the penalty of removal from service. He filed the appeal. The appellate authority i.e. Additional Divisional Railway Manager, after applying his/judiciously and after careful consideration, modified the punishment from removal to reducing him to the lower grade of Shuntman Grade II with cumulative effect. Thereafter he filed a review petition. The reviewing authority after careful consideration of the facts and circumstances of the case, took a lenient view, although the review was time barred, further reduced the punishment to one year with speaking order. According to

the respondents, the applicant was given adequate opportunities to defend himself and inquiry was held in accordance with the rules. In view of this, the respondents have prayed that the O.A. being devoid of merit, is liable to be dismissed.

4. Heard, the learned counsel for the parties and perused the record.

5. The applicant in his O.A. has taken the ground that the statement of certain witnesses should be relied upon and that of certain witnesses to be ignored. This is a settled law by the Apex Court that this Tribunal cannot act like appellate authority and reappreciate the evidence. It is seen from the record placed before us that the inquiry has been held in accordance with the rules and instructions. The applicant has been given adequate opportunity to defend himself and has been supplied with the required documents.

6. Apart from the above facts and circumstances, it is quite evident that the punishment imposed by the disciplinary authority was reduced and modified ^{at} in the appeal and revisional stages, and accepting the same the applicant joined his duty and thereby he has accepted the correctness of the order and acted upon it, and now he cannot agitate against the same. In State of Punjab & Others Vs. Krishna Niwas 1997 S.C.C. (L&S) page 998, the

Hon'ble Supreme Court has handed down the law on the point as under;

"The respondent having accepted the order of the appellate authority and joined the post, it was not open to him to challenge the order subsequently. By his conduct, he has accepted the correctness of the order and acted upon it. Under these circumstances, the Civil Court should not have gone into the merits and decided the matter against the appellant."

7. For the above, we find that the impugned orders could not be successfully assailed and thereby the O.A. is dismissed, with no order as to costs.

mjh
Member (A)

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Member (J)

/M.M./