

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

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Allahabad : Dated this 3rd day of January, 2000

Original Application No.1324 of 1992

CORAM:-

Hon'ble Mr. Justice Ashok Agarwal, Chairman

Hon'ble Mr. S. Biswas, A.M.

Ram Prasad S/o Shri Halke
Resident of New Harijan Colony,
Babina Cantt, Distt-Jhansi (U.P.),
Ex Station Master, Babina Railway Station
in Central Railway.

(Sri H.P. Pandey, Advocate)

. Applicant

Versus

1. The Union of India
Through the General Manager
Central Railway, G.M.'s Office,
Bombay V.T.
2. The Divisional Railway Manager,
Central Railway, D.R.M.'s Office,
Jhansi.
3. The Senior Divisional Operating Superintendent
(Movement) Central Railway, D.R.M.'s Office,
Jhansi.

(Sri A.K. Gaur, Advocate)

. Respondents

O R D E R (Oral)

By Hon'ble Mr. Justice Ashok Agrawal, Chairman

By the present OA the applicant seeks to impugn
the order passed against him in disciplinary proceedings
initiated against him. The applicant at the relevant
time was working with the respondents as ~~the~~ Stationmaster

Def.
S. Biswas

and was posted at Babina. By an order passed on 14-10-1982 he was transferred from Babina to Kalhar. The applicant did not comply with the order and declined to proceed to Kalhar after handing over the charge to his successor at Babina. Disciplinary proceedings were initiated against him on the ground of his having failed to comply with the order of transfer. ^{He was} ~~towards~~ charged with misconduct ^{for} ~~and~~ disobedience to the order validly passed. ^A ~~The~~ charge sheet was accordingly served upon the applicant on 7-3-1983. During the disciplinary proceedings, the record shows, the applicant was given sufficient opportunity to defend himself. The record further shows that the applicant had declined to cooperate in the said proceedings and had absented himself. The disciplinary proceedings accordingly were required to be conducted in his absence. The disciplinary authority by an order passed on 17-12-1983 held the applicant guilty of the misconduct charged and passed a major penalty of removal from service. The applicant impugned the aforesaid order of the disciplinary authority by filing an appeal. By an order passed on 6-2-1984 the appeal was dismissed. Taking exception to the appellate order the applicant approached this Tribunal by filing TA No.777/1986. This Tribunal by a judgement and order passed on 20-3-1990 found that the order in

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the appeal did not contain detailed reasons in support of its finding and hence the matter was remanded back to the appellate authority to pass a detailed reasoned order after affording the applicant a reasonable opportunity of being heard. The aforesaid order was passed on 20-3-1990. On remand the appellate authority gave a personal hearing to the applicant on 25-4-1990 and by a detailed judgement and order dated 27-6-1990 the order of the disciplinary authority imposing the aforesaid penalty of removal from service was confirmed and the appeal was dismissed.

2. The applicant thereafter approached the Revisional Authority. However, since no orders were being passed for a considerable period, the applicant preferred the present DA. The Revisional Authority, it may be mentioned, by its judgement and order dated 25-6-1992 dismissed the revisional application.

3. We have heard Sri H.P. Pandey, learned Advocate, who has appeared in ^{support} ~~respect~~ of the present application and Sri A.K. Gaur, the learned Advocate appearing on behalf of the respondents. We have perused the entire record with their assistance ~~in regard to the present controversy~~ and we now find that the applicant has been given an adequate opportunity to show cause against the penalty which was ultimately imposed upon him of removal from service. We further find that if

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at all anyone is guilty of not taking effective steps in the smooth conduct of the disciplinary proceedings the fault lies with the applicant. Though adequate opportunity was given yet he had not cooperated in the proceedings. We further find on perusal of the appellate order passed on 27-6-1990 that the directions contained in the order passed by this Tribunal on 20-3-1990 have been duly complied with. The applicant has been given personal hearing on 25-4-1990. The order affirms the finding of the disciplinary authority that the applicant did not hand over charge of the post of Station Master Babina to Sri J.P. Gangale who was posted in his place at Babina on 29-12-1982 as required and that he refused to accept the transfer letter and transfer travelling authority for carrying out his transfer to Kalhar on 2-3-1983 when the same was handed over to him by the Ticket Inspector. He was found guilty of serious misconduct and disobedience of orders. The charge levelled against the applicant was accordingly held established beyond doubt. The appellate order further takes note of the contention raised on behalf of the applicant that he had submitted his fitness certificate of the Railway Doctor on 12-12-1983 and had subsequently requested for an enquiry but the same was not conducted. On perusal of the record, the appellate authority found that the enquiry was conducted on 16-7-1983 whereas the applicant was sick, only from 14-4-1983 to 11-5-1983.


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The assertion of the applicant that he was unwell on the date of enquiry was accordingly found unsustainable. The record further shows that the applicant himself remained absent through out disciplinary proceedings despite notice. Hence, the contention of the applicant that he was not given sufficient opportunity and that his removal was against the provision of law and justice was not found sustainable. The principles of natural justice were accordingly found to have been followed. Though adequate opportunity was given to the applicant to appear and to put forth his case, the applicant did not cooperate and did not avail of the opportunity but had refused to cooperate in the enquiry. The departmental enquiry was accordingly conducted after following the procedure prescribed. The appellate order further finds that the reasons given by the applicant for disobeying the order of transfer, namely, that he wanted to attend to the education of his children and wanted to attend to his mentally disturbed wife was found to be an after thought ^{as} ~~and~~ the said reasons were conspicuously absent in his appeal dated 10-1-1984 which was initially filed against the order of the disciplinary authority. In our judgement the aforesaid order passed in appeal is ^a well reasoned order which puts forth and sets all the contentions raised by the applicant. The same have been duly considered and negated after giving detailed reasons.

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4. Sri H.P. Pandey, learned counsel for the applicant has sought to raise substantially the very same contention raised in the appeal. For the reasons set-out in the appellate order, we find that the same are devoid of merit and the same are accordingly dismissed. Sri H.P. Pandey has further sought to contend that his client has been a victim of repeated transfers from 1976 onwards till the impugned order of transfer dated 14-10-1982 was passed. The aforesaid impugned order was passed in the middle of the term. It was, therefore, not possible to comply with the order. The validity or otherwise of the order of transfer is not the subject matter of challenge before us. The order of transfer holds ^{the field} ~~final~~. What is impugned before us is the order passed against the applicant in disciplinary proceedings. We find that the said order of removal from service has been passed after duly following the principles of natural justice. We also find that the penalty of removal from service cannot be held to be disproportionate to the finding of guilt held proved against the applicant. We do not find that the applicant is entitled to the relief claimed in the present application.

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5. In the facts and circumstances of the case stated above, the DA is dismissed. There shall be no order as to costs.

S. Davis
Member (A)

[Signature]
Chairman

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