

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1802 of 1993

Allahabad this the 15/1 day of Sep. 1997

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

Hon'ble Mr. D.S. Baweja, Member (A)

Jagdish Singh Sodhi S/o Late Hardyal Singh Sodhi,
last employed as Sr.Clerk under Station Supdt. N. Railway
Shikohabad, New resident of Rajesh Bhawan, New Colony,
Tundla District, ~~UP~~ Firozabad.

Applicant

By Advocate Sri Dewa Sharma

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. Additional Divisional Railway Manager, Northern
Railway, D.R.M.'s Office, Allahabad.
3. Sr. Divisional Operating Manager, Northern
Railway D.O.M.'s Office, Allahabad.

Respondents

By Advocate Sri J.N. Singh.

ORDER

BY HON'BLE DR. R.K. SAXENA, J.M.-

This is an application moved under section 19 of the Administrative Tribunals Act, 1985 by one Jagdish Singh Sondhi challenging the order of punishment dated 14/15.10.1992 and appellate order dated 2.3.1993 rejecting appeal. Another relief claimed is that the arrears of salary from 14/15.10.1992 upto 31.7.1993, the date of superannuation, be allowed to be paid, and the interest @ 18½ be directed to be paid on the sum of Rs. 2,39,318-60 which was belatedly paid as back wages.

2. The facts of the case are that the applicant was Guard grade 'B' in the year 1980. He met an accident in the year 1980 and suffered hip fracture. It resulted in shortening ^{of} his right leg. He was, therefore, declassified on 31.7.1992 to hold the post of a guard. By way of alternative job, he was appointed as senior clerk on 10.6.1993 at Shikohabad. It appears that Senior Divisional Safety Officer inspected Shikohabad station on 24.8.1993 when the applicant was found absent. Certain complaints of his coming office in drunken stage and misbehaving with the staff also came to light. Thereupon the applicant was placed under suspension and was served with a charge-sheet. The enquiry was given to Shri R.S. Singh, Traffic Inspector, Etawah. It is contended that the Enquiry Officer was biased and, therefore, he submitted the report that the charges were established. The disciplinary authority therefore passed the order ^{on 1} 6.10.1984 whereby he was removed from service. The appeal was dismissed on 10.9.85 and review application was also rejected on 25.3.1988. The applicant approached the Tribunal in O.A. No. 696/1988

which was allowed on 6.12.1990 whereby the orders of disciplinary authority, appellate authority and reviewing authority were quashed and option was given to the respondents to reopen the proceedings from the stage immediately after making the enquiry report. The applicant was also given an option to make a representation to the disciplinary authority within 4 weeks from the date of receipt of the copy of the judgment; and the respondents were required to pass final order thereon. The respondents were further directed to reinstate the applicant and to pay back wages.

3. It appears that the applicant was reinstated and an amount of Rs. 2,29,318-60 was paid. The disciplinary authority exercised option and again passed an order of removal from service on 14/15.10.1992. The appeal which was filed challenging the order of punishment, was rejected by the appellate authority on 2.3.1993. Hence this original application with the aforesaid reliefs.

4. The respondents filed their counter-affidavit of D.P.Pandey, Senior D.O.S. It is admitted that the applicant had previously worked as guard and was declared medically unfit for the post of guard. He was, therefore, made senior clerk and posted at Shikohabad. It is also admitted that Senior Divisional Safety Officer visited Shikohabad Railway Station on 24.8.1993 and found that the applicant who was the only clerk in the office of the Station Superintendent, had already left without seeking any permission from the Station Superintendent. It is also pleaded that the charge which was levelled against the applicant was of serious nature. The enquiry was conducted properly

and full opportunity to defend himself, was given to the applicant. The Enquiry Officer found the charges of attending the office in the state of intoxication, to be careless in his duties, to delay the work of the office, as proved and thus the disciplinary authority had awarded the punishment of removal. It is also justified that the appeal was rightly rejected.

5. The contention of the respondent is that in compliance with the directions of the Tribunal in the earlier Original Application, an amount of Rs. 2,39,218-60 was paid towards back wages. The claim of interest has been denied. It is urged that the Original Application be dismissed.

6. The applicant filed rejoinder stating that the written reply of the respondents was based on conjectures and surmises. The facts which were narrated in the Original Application, are reaffirmed.

7. We have heard the learned counsel for the applicant and for the respondents and have perused the record.

8. The first point raised by the learned counsel for the applicant is that the charge which was confirmed against the applicant is ambiguous, uncertain and devoid of the necessary facts. To find out the substance in this argument, it would be necessary to go through the language of the charge itself. It

.....pg.5/-

reads as under:

"The said Shri J.S. Sodhi, Sr.Clerk, N.Rly. SKB, since his posting at SKB in June, 1983, his working has been quite unsatisfactory, his behaviour to staff has also been far from satisfactory. Also that the said Shri Sodhi comes to office in state of drunkenness. That the said Shri Sodhi leaves office ~~well~~ before the closing time of office, and entrains the 1 up mail for TDL, without any intimation or permission. That the office files & documents, from the possession of Shri Sodhi are missing, Shri Sodhi has himself reported missing of 4 Blank foils of IInd class Foreign Pass Book. That on 22/8/83 Shri Sodhi was entrusted to book staff for eye sight test, but they were not sent as Shri Sodhi left office, before time locking the records and documents in Almirah. Thus the said Shri J.S. Sodhi, being a responsible Rly.servant is acting in most becomming manner and as such violated Rule 3 (1) (II) (III) of Rly.servants Conduct Rule 1966."

9. A perusal of the language of the charge would reveal that no definite date, place or time of all but one charge, ⁸ have been spelled out. Not only this, there appears general imputation that his work was quite unsatisfactory and similarly the behaviour with the staff was also unsatisfactory. So far as the allegation of unsatisfactory work and behaviour with the staff is concerned, there is no definite date. The applicant being found in drunken condition is not attributed to a particular date or time. The definite information of missing files and documents from the possession of the applicant has not been shown. The only definite charge is that on 22.8.83, the applicant failed to book the staff for eye sight test and thus, the staff could not be examined medically. Thus, we find that except one charge, others ^{charges} are not given any date, time and place. The purpose of framing a charge is that the

charged person may know the definite allegation levelled against him so that he may prepare himself and may defend also. When the charges are ambiguous and do not indicate the necessary information, it is clear that the charged employee shall be deprived of the right to defend himself properly. Thus, we come to the conclusion that except the charge that on 22.8.83 the applicant failed to book the staff of eye sight test, other charges are ambiguous and the detailed information cannot be elucidated from there. The result, therefore, is that ambiguity in charges, ² ~~except one~~ shall mean denial of the right of defence to the charged employee.

10. In view of the above discussions about the ambiguity in the charges except one, it is clear that the report of the inquiry officer and finding recorded by the disciplinary authority about those ambiguous charges, shall not be taken into consideration for determining ^{the} guilt and penalty of the charged employee i.e. the present applicant. So far as the charge of which definite information was given to the applicant is concerned, we find from the report of the inquiry officer that the applicant was found guilty by him. It was clearly written by the inquiry officer that the applicant had failed on 22.8.83 to issue memo of eye test to S/Shri Har Sharan Lal Saxena and Om Prakash and thus, they could not reach for the eye test. Not only this, the applicant also failed to make the arrangement in place of those two persons-Har Sharan Lal Saxena and Om Prakash, Gate-keeper on the date when they were supposed to go for eye-test. It is also observed by the inquiry officer that the applicant had left the office early after locking the almirah and, therefore, the papers could not be taken out by the Station Master who could

have otherwise prepared the memo of eye test of those two gatemen. The disciplinary authority found all the charges established and, therefore, the order of removal which was maintained in appeal, was passed. The learned counsel for the applicant argued that there was no evidence in support of the charges and thus, it was a case of no evidence. He had vehemently argued that the medical examination to find out if the applicant was in a drunk-ing condition, was not got done and thus, there could be no order of penalty. We have already held that the other charges including the charge of drunk~~ing~~ condition were ambiguous and there is no necessity to consider the evidence about other charges except the charge of non-issuance of memo for eye test of two gatemen. The Station Master-Rajendra Katchap was examined and this fact was stated by him. Thus, it is not correct that there is no evidence even in support of this charge. Even if some evidence is there in support of the charge, ~~it is~~ is enough. The result of this discussion, therefore, is that there is some evidence in support of the charge that the applicant failed to issue memo to Shri Har sharan Lal Saxena and Om Prakash, gateman for their eye test on 22/8/83.

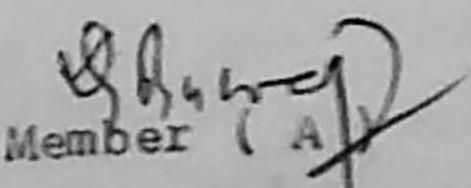
11. The learned counsel for the applicant also argues that the order of removal from service is too severe to sustain in law. It is well settled law that the departmental authorities are the best judges to app- reciate the evidence and also to determine the penalty. The disciplinary authority has awar-ded the punishment of removal from service and looking to the fact that the applicant had been discharging his duties in a most

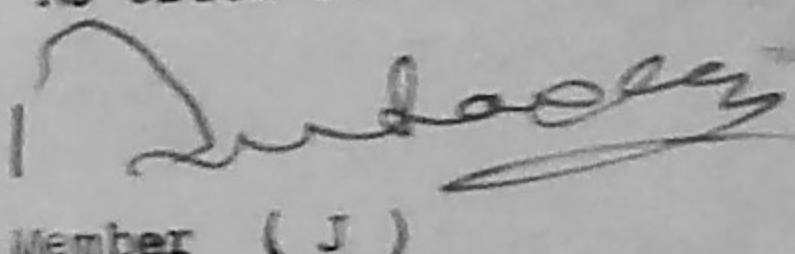
careless manner, we do not find that the punishment can be attributed to be a punishment which may prick conscience of a prudent man. Besides, the Tribunal has got no authority in judicial review to substitute any other punishment than the one which was awarded by the departmental authorities. Thus, this argument carries no weight.

12. The learned counsel for the applicant has also argued about violation of natural justice in general but no specific instances were given. Also we do not find any such ground which may vitiate the departmental proceedings or the punishment awarded by those authorities.

13. The applicant has also sought the relief of payment of interest on the amount of Rs.2,39,318-60 which was paid belatedly as backwages after his reinstatement. It may be pointed out that this relief is in no way connected with the cause of action of this case. Plurality of relief is also not permitted in the law. Thus, this relief of payment of interest cannot be allowed.

14. On the consideration of all these facts and circumstances of the case, we come to the conclusion that there is nothing on record which may justify the contention of the applicant for quashing of the order of punishment. The O.A. is, therefore, dismissed. No order as to costs.


Member (A)


Member (J)