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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 5<sup>th</sup> DAY OF MAY, 1995

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S. DAYAL, MEMBER (A)

Original Application No. 40 of 1993  
Om Prakash Tripathi, s/o late Shri Chandra  
Bhal Prasad Tripathi, R/o Railway Quarter  
No. 44/J, Faxal Ganj Colony, Kanpur

... Applicant

BY ADVOCATE SHRI R.S. MISRA

Versus

Union of India, through Divisional  
Railway Manager, Northern Railway  
Allahabad.

.... Respondents

BY ADVOCATE SHRI K.D. PANDEY

O R D E R (Reserved)

JUSTICE B.C. SAKSENA, V.C.

This O.A is directed against an order of punishment dated 5.8.92 as also the order of the Appellate Authority dismissing the appeal passed on 13.10.92. A further prayer has been made for a direction be issued to the respondents to amend the seniority and promotion list dated 8.9.92 and to declare the applicant's seniority and promotion by giving operation to various W.I.T punishments separately according to the rules.

2. The brief facts alleged in the O.A are that the applicant was served with a Memorandum of charges alleging misconduct and careless working inasmuch as the applicant though directed to work in Sleeper Coach S-3 and S-4 ~~and~~ he did not go <sup>in</sup> S-4 resulting ~~in~~ not getting the berth to the R.A.C passengers. The order of punishment was passed by the Asstt. Supdt. Kanpur

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Area, Northern Railway. The order of punishment has been passed under Rule 6(VI) of the Railway Servants (D & A) Rules. It states that after carefully considering the representation dated 30.5.92 submitted by the applicant in reply to the charge sheet the disciplinary authority found his representation to be unsatisfactory for the reasons indicated in the order and thus the order of punishment had been passed.

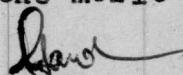
3. A counter affidavit had been filed on behalf of the respondents. The applicant had filed a rejoinder affidavit.

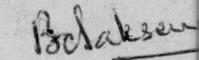
4. The learned counsel for the applicant urged that the extra duty in addition to the scheduled duty had been made without consideration of the possibility of its being discharged. It is urged that the two sleeper coaches were not vestibuled and were also not close to each other. It has been alleged that under the schedule of duty one TTE had required to shoulder the responsibility of one sleeper coach only. It is alleged that the additional duties violates the schedule of duty. The applicant's own case is that there was shortage of staff and the conductor of the train Ayodhya Prasad allotted extra coach to the applicant in addition to his duty as TTE in S-3. Copy of the explanation has been annexed. The explanations ~~have~~ been considered by the disciplinary authority. It has not been disputed that the applicant ~~did~~ did not attend coach no. S-4. ~~The explanation at the end of the affidavit appears to have been considered by the disciplinary authority.~~ The learned counsel for the applicant has not been able to indicate violation of any statutory rule in the conduct of the proceedings.

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Surprisingly enough, neither the disciplinary authority nor the appellate authority had been impleaded as respondents. The sole respondents impleaded is the Union of India through Divisional Railway Manager. In any case this Tribunal does not sit as a court of appeal and cannot interfere with the findings recorded by the disciplinary authority. That according to settled law is in the exclusive domain of the disciplinary authority. The learned counsel for the applicant has also not able to indicate any grounds for challenging the order of the appellate authority.

5. Thus we do not find any merit in the challenge to the order of punishment or the order by the appellate authority. As far as the second relief is concerned, necessary facts have not been indicated but it appears that because of the minor penalty the applicant has not been granted promotion. In <sup>the</sup> misc. application it has been indicated that the promotion of the applicant had been held up probably due to currency of the punishment. Alongwith the rejoinder Annexure A-2 has been filed which shows that after the expiry of the period of punishment the applicant has been granted promotion to ~~initial~~ <sup>post of</sup> S.T.E. Thus we find no merit in the submission. The O.A. lacks merit and is accordingly dismissed.

  
A.M.

  
V.C.

Dated: May 5, 1995

Uv/