

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 17<sup>th</sup> day of July 2001.

Original Application no. 1205 of 1993.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman  
Hon'ble Maj Gen KK Srivastava, Administrative Member

RAM NARAIN MISHRA,  
S/o ML Mishra,  
R/o Katra Mau Ranipur,  
JAIPUR.

... Applicant

C/A Shri S. Agarwal

Versus

1. Union of India through the Secretary,  
Ministry of Railways,  
NEW DELHI.
2. Addl. Divisional Railway Manager (O),  
Central Railways,  
JHANSI.
3. Senior DOSN, Central Railways,  
JHANSI.
4. Chief Operating Superintendent,  
Central Railways,  
BOMBAY VT.

... Respondent

C/Rs Shri AV Srivastava

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ORDER


Hon'ble Maj Gen KK Srivastava, Member-A.

In the present OA filed under section 19 of the Administrative Tribunals Act, 1985, the applicant Shri Ram Narain Mishra has prayed for quashing the punishment order dated 2.1.1990 imposing the penalty of reduction to the minimum of grade in ~~same~~ <sup>hr</sup> time scale ~~time~~ <sup>hr</sup> scale, appellate order dated 1.2.1991 reducing the penalty of reduction in the time scale to the minimum of the grade for a period of six months from the date of the initial order dated 2.1.1990 and order of the revisionary authority dated 8.9.1992 upholding the penalty imposed by the appellate authority.

2. Briefly the facts are that the applicant joined Railways as signaller on 17.8.1951, was promoted as Assistant Station Master in 1954, Station Master on 1.5.1970 and Station Supdt. in March 1985. He was posted as Station Supdt. ( in short SS) Mahoba on 27.2.1986 where he worked upto 9.11.1988. He superannuated on 31.8.1990 as SS Mau Ranipur.

Charge sheet dated 30.3.1989/17.4.1989 containing 5 charges was served on him pertaining to the period he was working as SS Mahoba. He denied the charges. Sri DKA Narayanan was appointed as inquiry officer who submitted the enquiry report on 25.8.1989 on the basis of which the Disciplinary Authority passed the punishment order dated 2.1.1990. The applicant filed an appeal to Appellate Authority (Respondent no.2)

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who upheld the punishment reducing the period of its operation. The applicant thereafter filed a Revision Petition under Rule 25 of the Railway Servant D & A Rules 1968 on 25.4.1991. The Revisionary authority dismissed the Petition vide his order dated 8.9.1992.

3. Heard Shri Sudhir Agarwal learned counsel for the applicant and Shri AV Srivastava learned counsel for the respondents.

4. Shri Sudhir Agarwal learned counsel for the applicant submitted that the main charge against the applicant are that he engaged 10 casual labours without obtaining the sanction of the competent authority, made the payment to these casual labours from station earnings against the instructions issued from time to time, rented out steam loco shed Hall and running room for drivers and guards for marriage and other purposes to outsiders and did not deposit the money realised to the Railway revenue. The enquiry officer Shri PK Narayanan started conducting the enquiry in a biased and prejudiced manner. So the applicant requested the authorities concerned through the inquiry officer for change of Enquiry officer on account of bias on 10.7.1989 and attended the enquiry proceedings under protest. The applicant was not provided adequate opportunity to defend himself by the Inquiry Officer who conducted the inquiry

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<sup>in</sup> <sup>an</sup> <sup>arbitrary</sup> <sup>manner</sup> ignoring the request of the applicant dated 10.7.1989 and 29.8.1989 for change of Enquiry Officer in gross violation of principles of natural justice. The enquiry report does not discuss the defence taken by the applicant. Hence the report of Inquiry Officer is biased, therefore, not reliable and legal.

5. The learned counsel for the applicant further submitted that the casual labours were not engaged by the applicant. In fact these casual labours had already been engaged by the predecessors. The payment of the casual labours initially were made in accordance with para 2425 of commercial manual Vol. 2 from station earnings but he did not make any payment from Station earnings after receipt of instructions dated 6.10.1987. The learned counsel for the applicant argued that Loco Shed is under Railway Institute and it was being rented for marriages. The earnings so collected were credited in the accounts of Railway Institute. The applicant was <sup>in</sup> <sup>the</sup> <sup>position</sup> <sup>of</sup> <sup>being</sup> <sup>the</sup> <sup>treasurer</sup> <sup>of</sup> <sup>Railway</sup> <sup>Institute</sup> <sup>in</sup> <sup>May</sup> <sup>1988</sup> <sup>only</sup>. The instructions for renting the locoshed for marriage purpose were being issued mostly by Secretary of Institute Sri V.N Awasthi and the money collected was credited in the accounts of RRailway Institute.

6. The learned counsel for the applicant finally submitted that the inquiry was conducted only <sup>for</sup> <sup>2</sup> <sup>days</sup> <sup>ie.</sup> on 10.7.1989 and 29.8.1989. The applicant

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sent a detailed letter on 5.9.1989 to the disciplinary authority narrating the events and requesting for change of Inquiry Officer but no action was taken by Disciplinary authority on applicants letter dated 5.9.1989.

7. The learned counsel for the respondents contested the claims of the applicant and argued that the petitioner was charge sheeted on the complaint of <sup>the</sup> Vigilance organisation. The casual labour/substitute engaged by the petitioner had neither worked prior to 18.12.1980 nor were holders of genuine casual labour service cards. Hence their engagement was illegal and unauthorised. Loco Shed Hall/ Running room, for drivers and guards were rented out for marriage <sup>for the</sup> ~~purpose~~ by the applicant without approval of the administration. The amount realised as rent/hire charges should have been <sup>for</sup> credited to Railway revenue which was not done. The enquiry was conducted without bias affording full opportunity to the petitioner for defence. On the basis of material on record the charges are proved against the applicant and Disciplinary Authority passed the punishment order on 2.1.1990. The copy of the enquiry report was supplied to the applicant alongwith the punishment order.

8. The learned counsel for the respondents further submitted that the Appellate authority took a lenient view and reduced the punishment imposed



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by the disciplinary authority. The order of Revisionary Authority is a reasoned order rejecting the petition of the applicant.

9. The learned counsel for the respondents finally submitted that the applicant was given full opportunity to defend himself. The enquiry was conducted as per rules without any bias or malafide intention. The charges stand proved and the applicant is not legally entitled for any relief.

10. We have considered the submission of the counsel for the parties and perused the records. The applicant's submission in regard to charges levelled against him that he did not engage the casual labours as they had already been engaged by the predecessor cannot be relied. No where either in enquiry or through documents, he has been able to substantiate this point. The casual labour did not have genuine casual labour <sup>service</sup> cards. Hence it was more necessary for the applicant to have obtained the sanction of the competent authority which he did not do .

11. The plea of the applicant that according to the provisions of commercial manual Vol. 2 Para 2425 and under the payment of Wages Act the payment to casual labours was made within 48 hours is also assailable



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as no where the authority has been given to the Station Superintendent that he can make payment to casual labours from Station Collection.

13. We have carefully perused the enquiry report and we find no legal infirmity. The applicant did attend the enquiry and the report of the enquiry officer is quite comprehensive and the charges are proved. The applicant, in case of reservation about the attitude of the Inquiry officer, should have applied to the competent authority under the provisions<sup>in</sup> of rule 25 of D & A rules 1968 for change of inquiry officer. His applications dated 10.7.1989 and 29.08.1989 addressed to Inquiry officer itself for change of Inquiry Officer and attending the proceedings under protest have no force of law. The applicant's sending detailed letter to disciplinary authority narrating the events and requesting for change of Inquiry officer on 5.9.1989 after the enquiry was over on 28.8.1989 will not be of any avail to the applicant and it appears that out of ulterior motives<sup>he u</sup> sent the application for change of Inquiry Officer at such a late stage to the competent authority. There has<sup>been</sup> no violation of principle of natural justice.

14. The appellate authority reduced the punishment vide his order dated 1.2.1991. The order dated 8.9.1992 of the Revisioning authority is a speaking

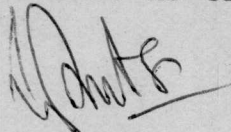
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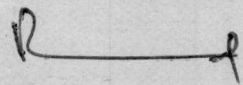
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order and the Revisionary authority has upheld the order dated 1.2.1991 of the appellate authority after fully discussing the merits of the case.

15. In view of the above observations we have no reasons to interfere. The OA is dismissed as it is devoid of merits.

16. There will be no order as to costs.

  
Member-A

  
Vice-Chairman

/pc/