

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL  
BENCH AT ALLAHABAD.

.....

Dated : 02.08.1995

O.A. No. 714 of 1995

Hon. Mr. S. Das Gupta, Member(A)  
Hon. Mr. T.L. Verma, Member(J)

R.D. Roy Choudhary, son of late Shri  
S.R. Choudhary, aged about 50 years,  
Resident of Quarter No. M.A.544/  
D, Rani La-xmi Nagar, Jhansi. ... ..APPLICAT.

(By Advocate Sri H.P. Pandey & Sri A.D.  
PRAKASH)

VERSUS

1. The Union of India, through the General  
Manager, G.M's Office, Central Railway,  
Bombay V.T.
2. The Divisional Railway Manager,  
Central Railway, Jhans.
3. The Additional Divisional Railway  
Manager (Operating) Central Railway,  
Jhansi. ... ..RESPONDENTS.

O R D E R

( By Hon. Mr. S. Das Gupta, Member(A) )

This Original Application has been filed under  
Section 19 of the Administrative Tribunals Act, 1985  
challenging the order dated 31.8.1992 passed by the  
disciplinary authority, the order dated 1.10.1992  
passed by the appellate authority and the order dated  
8.11.1989 passed by the revisionary authority. It has  
been prayed that all these orders have been quashed  
and the respondents be directed to restore the  
applicant on his original grade and post after under  
going the punishment.

Wf,

.2.

2. The applicant was charge-sheeted vide charge memo dated 29.6.1982 under Rule /9 of the Railway Servant(Disciplinary and Appeal ) Rules,1968 for having altered the dates in his medical certificate. He admitted the charge. Thereafter the disciplinary authority passed the impugned order dated 31.8.1982 removing the applicant from service. On appeal, the appellate authority moderated the penalty to that of permanent reduction from the post of Chargeman-B to that of Fitter Grade-III by the impugned order dated 28.9.1982. The applicant filed a revision petition to the General Manager and the General Manager vide the impugned order dated 8.11.1989 decided that the penalty of reduction to the lower post of Fitter Grade-III as a permanent measure be revised as for the period until the applicant is found fit for further ~~promotion~~ promotion to the next higher grade when he is found fit in his own turn. His seniority in the lower grade of Fitter Grade-III was to be reckoned from the date of issue of the order for the purpose of promotion.

3. The applicant submitted a representation dated 27.6.1990 followed by another representation dated 9.7.1990 against the order of the General Manager on the ground that the penalty imposed was disproportionate.

4. The application is clearly time barred . The learned counsel for the applicant moved an application

W.P.



for condonation of delay in which it has been submitted that the applicant could not file this application earlier as his son was suffering from cancer and ultimately died of the disease and due to which the applicant was mentally disturbed. In view of the submissions made, we proceeded to consider this application on merits.

5. The only ground which has been urged before us by the learned counsel for the applicant at the time of argument when the case came up for admission is, that the penalty so imposed is disproportionate to the gravity of misconduct. There is nothing in the pleadings to indicate that there was any infirmity in the disciplinary proceedings which resulted in the denial of adequate opportunity to the applicant to defend himself. In the absence of any infirmity in the proceedings <sup>or</sup> order, in the order of the disciplinary authority or the appellate authority and the revisionary authority, we see no reason for our interference in the action taken by the various authorities. It is a settled position of law that the Courts/Tribunals shall not enter into the question of quantum of penalty unless the penalty imposed is so disproportionate to the gravity of the misconduct as to make it capricious and arbitrary. The misconduct alleged in this case was of tampering <sup>with</sup> of an official document. This was a grave misconduct and, therefore, we cannot hold that the penalty imposed was totally disproportionate.

Wf.

.4.

6. The learned counsel for the applicant urged that the ends of justice in this case will be served if we direct the respondents to consider the applicant's request for reckoning his seniority in the lower grade of Fitter Grade-III from the date on which the appellate order was passed. We see no reason to issue such a direction. However, it would be open to the applicant to make such a request to the competent authority and it would be open for the respondents to consider such a request if made in any manner as they deem fit .

7. The application has, otherwise, no merit and the same is dismissed in limine.

  
MEMBER (J)

  
MEMBER (A)

(N.U)