

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 11th day of JULY 2001

Original Application no. 890 of 1995.

Hon'ble Mr. S. Dayal, Administrative Member

Hon'ble Mr. S.K.I. Naqvi, Judicial Member

Vijai Kumar Singh, S/o Mahavir Singh,  
R/o Station Road Mirzapur, Working as Khalasi,  
Construction Inspector, Northern Railway,  
CHUNAR.

... Applicant

C/A Sri PK Kashyap

Versus

1. Union of India through General Manager,  
Northern Railway, Baroda House,  
NEW DELHI.
2. Assistant Engineer, Northern Railway,  
NEW DELHI.
3. Divisional Supdt. Engineer I,  
Northern Railway,  
Divisional Rail Manager Office,  
Northern Railway,  
ALLAHABAD.

... Respondents

C/Rs Sri AK Gaur



...2/-

O R D E R

Hon'ble Mr. S. Dayal, Member-A.

This OA has been filed for setting aside punishment order dated 19.2.1994 and the appellate order 16.10.1995.

2. The applicant was working as Khalasi under PWI Grade II Chunar. He was served with a charge sheet dated 30.12.1993. The inquiry was held against him during which two witnesses were examined. The applicant claimed that they were under the influence and pressure of PWI Grade II. The applicant claims that he was not given the findings of the inquiry officer. After the inquiry he claimed that the statement of Sri Tota Ram, Khalasi and Sri Radhey Shyam, Khalasi and other witnesses has not been considered by the inquiry officer. It is claimed that Sri Ram Kumar PWI Grade II Chunar was not produced as prosecution witness despite the request of the applicant nor letter dated 30.7.1993 written by him has been given to the applicant. The charge sheet shows that the incident took place on 30.3.1993, but no FIR of the said incident was lodged against the applicant either for 30.3.1993 or 30.7.1993. It is claimed that the lapses in the inquiry have not been considered by the appellate authority.

3. We have heard the arguments of Sri PK Kashyap for the applicant and Sri AK Gaur for the respondents.

4. Learned counsel for the applicant mainly submitted three arguments. The first was that the statement of Shri Basu Singh, Khalasi, shows that on the first day he had not corroborated that Shri Vijay Kumar Singh ran after Shri Ram Kumar, to beat him with chappals. He states that the statement was not completed on the first day and on the next date under the pressure of PWI, Grade II, Chunaw, the said applicant corroborate that he had seen Shri Vijay Kumar after Shri Ram Kumar.

5. The above contention of learned counsel for the applicant contending that the statement of Sri Basu Singh showed that the incident was concocted to punish him cannot be accepted as Shri Jamil, mate another witness has stated that the such incident did take place. The statement of Sri Basu Singh that he did not see such an event on first day cannot be taken as truth as he was not feeling well on that day and made the statement in that frame of mind. In any case we would not like to reappraise the evidence in this case as it is not a case of no evidence or perverse conclusions and the appraisal of evidence is within the perview of the departmental authorities.

6. The learned counsel for the applicant contended that the disciplinary and appellate authority in passing order of punishment has taken previous conduct of the applicant into account. The applicant has not been given intimation at the time of serving charge sheet on him that his previous conduct would be taken into account.

7. We have considered this contention. We find from the order of disciplinary authority that he has found that the incident alleged to have taken place on 30.7.1993 was true and the applicant was guilty of misconduct. Hence, the charge against the applicant has been found to have been established, even if previous incidents referred to by the disciplinary authority as well as appellate authority were not to be taken into account, the charge by itself is serious enough to warrant the punishment given to the applicant. Therefore, this contention also does not persuade us to set aside the order of disciplinary authority.

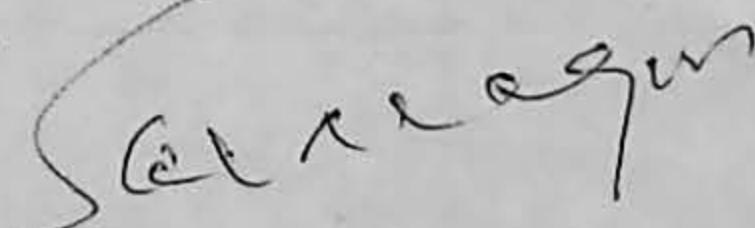
8. Lastly the learned counsel for the applicant has stated that the applicant was not given inquiry report and, therefore, the action taken against him cannot be sustained.

9. We find that the disciplinary authority had mentioned that the report of the inquiry officer was sent to him by registry at his residential address, but he was not available at his residence on 5.2.1994, 7.2.1994, 8.2.1994, 9.2.1994 & 10.2.1994 and, therefore, the postal department sent it back with the remark that the applicant was not available despite a number of visits. The Inspector of Works (IOW) sought to serve the said paper on 18.2.1994 to on the applicant, but the applicant refused ~~to~~ accept it in the presence of Shri Suresh Chandra, Khalasi and Shri Dharam Pal Singh. The respondents in their counter affidavit have also given the same facts. The applicant has denied the contention made by the respondents in their

counter affidavit as false and concocted. The applicant has not ~~stated~~ categorically denied as he has not stated whether he was present at his residence on the dates mentioned by the respondents or had gone to office on 18.2.1994. Therefore, we find that it was due to the fault of the applicant that he did not get copy of the inquiry report and the respondents had made all reasonable efforts to serve it on him.

10. As regards the statement of other witnesses, it is not necessary that all witnesses should have corroborated the version in statement of allegations. There is no averment on the part of the applicant that such witnesses have made any denial that the alleged incident took place. We, therefore, find no substance in the OA and the same is dismissed as lacking in merits.

11. There shall be no order as to costs.



Member-J



Member-A

/pc/