

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

original Application No. 1542 of 1999
this the 18th day of March 2004.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)
HON'BLE MR. S.C. CHAUBE, MEMBER (A)

Prem Chandra, S/o Sri P.D. Gupta, R/o Indian Cancer
Research Institute, Radiology Department, Varanasi.

Applicant.

By Advocate : Sri S. Kumar.

versus.

1. Union of India through General Manager (Personnel),
North Eastern Railway, Gorakhpur.
2. Chief Medical Director, North Eastern Railway,
District Gorakhpur.
3. Medical Director, Lalit Narain Misra Railway Hospital,
Gorakhpur.
4. Sr. Divisional Medical Officer/Disciplinary authority,
L.N. Misra Railway Hospital, Gorakhpur.

Respondents.

By Advocate : Sri D.C. Saxena.

O R D E R

PER S.C. CHAUBE, MEMBER (A)

The applicant while posted and functioning as X-ray Technician in the Railway hospital indecently misbehaved with a lady patient Km. Kavita, which caused furore in the premises of the Railway hospital. The next day, the incidence was extensively published in the local Newspapers which tarnished the image of the Railway hospital. Accordingly, departmental proceedings under Rule 11 of Railway Servants (Discipline & Appeal) Rules, 1968 were initiated against him on 28.9.1998. As a result of which minor penalty of withholding one increment for a period of 35 months with non-cumulative

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effect was imposed upon the applicant. The appellate authority confirmed the punishment vide its order dated 12.1.99. Aggrieved by the orders of the disciplinary as well as appellate authorities, the present O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 by the applicant in which the following relief(s) have been sought :

(i) quashing impugned orders dated 9.11.98 and 12.1.1999.

(ii) directing the respondents not to implement the aforesaid orders passed by the respondent nos. 3 & 4 respectively against the applicant.

He also filed a revision petition dated 19.3.1999 against the order of the appellate authority, which according to the applicant, ~~the same~~ was not disposed of.

2. It has been pleaded by the respondents that the respondent no.4 namely Sr. Divisional Medical Officer/ disciplinary authority was deputed to take necessary action under DAR Rules 1968, by the respondent no.3, who after due consideration of facts, circumstances and material on record, passed the impugned order dated 9.11.1998 imposing the penalty on the applicant. It is also stated that the patient Km. Kavita had given her statement (preliminary enquiry) before the investigating Officer Dr. R.C. Lohani, Senior Divisional Medical Officer, N.E. Railway, Gorakhpur. Therefore, the Senior Divisional Medical Officer, N.E.R., Gorakhpur after her statement alongwith other statements was duly considered by the respondent no.4 before passing the impugned order imposing the minor penalty, even though it was not necessary to have a written complaint as averred by the respondents. The mother of the patient Km. Kavita had complained to the Medical Officer about the incidence. It has further been pleaded by the

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respondents that the statement of relevant witnesses were recorded by Dr. R.C. Lohani, investigating officer during the preliminary enquiry and the minor penalty, in question, was based on evidence. The allegation of the applicant that the action was taken merely on the basis of News item has been denied by the respondents as totally wrong. As regards, non-disposal of the revision filed by the applicant, the respondents have stated that the same was rejected as time barred.

3. In his Rejoinder, the applicant has pleaded that the action taken against him, was contrary to the rules and violative of the principles of natural justice because no enquiry was conducted by the respondents.

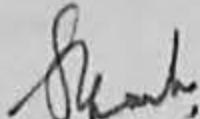
4. We have heard both the counsel and perused the pleadings on record.

5. It has been argued by the counsel for the applicant that the disciplinary as well as appellate authorities have passed non-speaking orders, which are devoid of relevant details of the material available against the applicant. In both the orders detailed reasons and grounds for holding the applicant guilty of misconduct have not been amply clarified. We are unable to accept these arguments of the counsel for the applicant. On the other hand, we are inclined to rely on the decision of the Hon'ble Supreme Court in the case of Bhawani Shanker Sharma Vs. Union of India & others reported in 1974 Vol.II SCC page 9. The question was as to whether in each case the punishing authority is required to give the reasons in its order inflicting minor punishment. Accordingly, the apex court held in the aforesaid cited case that while giving minor penalty of withholding increment, it was not necessary to inform to the delinquent officer of the reasons for coming to the

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conclusion for inflicting minor penalty. We are, therefore, unable to accept the proposition of law submitted by the learned counsel for the petitioner that punishing authority in each case where minor penalty is inflicted should give reasons in its order of punishment. Besides, the respondents have clearly stated in their Counter affidavit that a preliminary enquiry was conducted by DR. R.C. Lohani, Senior Divisional Medical Officer, N.E.R. and the statement of patient Kavita alongwith other relevant statements were duly considered by the respondent no.4 before imposing penalty against the petitioner.

6. In view of the foregoing discussions, O.A. is dismissed with no order as to costs.


MEMBER (A)


MEMBER (J)

GIRISH/-