

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD

Original Application No. 813 of 2002

Allahabad this the, 18th day of December, 2013

Hon'ble Mr. Justice S.S. Tiwari, Sr. J.M./HOD
Hon'ble Ms. B. Bhamathi, Member (A)

Mohan Singh S/o Sri Karan Singh, R/o Village Kalyanpur, P.O. Dhanauli, District Agra.

Applicant

By Advocate: Sri S.S. Sharma

Versus

1. Union of India through the General Manager, North Central Railway, Headquarters Office, Subedarganj, Allahabad.
2. Divisional Railway Manager, North Central Railway, DRM Office, Jhansi.
3. Divisional Operating Manager, North Central Railway, DRM Office, Jhansi.
4. Divisional Operating Manager (Coaching), North Central Railway, DRM Office, Jhansi.

Respondents

By Advocate: Sri Anil Kumar

Reserved on 26.11.2013

ORDER

By Hon'ble Mr. Justice S.S. Tiwari, Sr. J.M./HOD

The applicant has prayed for the following relief(s): -

8.1 *Pass an order or direction quashing the impugned orders dated 31-10-2000 received on 15-11-2000 imposing punishment of WIT 3 years with cumulative effect (Annexure A-1) and the appellate order dated 27-6-2001 served on the applicant on 8-2-2002 (Annexure A-2) upholding the above*



punishment order with all consequential benefits to the applicant;

8.2 Pass an order or direction directing the respondents to pay arrears of salary, allowances etc. to the applicant forthwith with suitable rate of interest which were deducted/ stopped in pursuance of the earlier punishment order consequent upon the setting aside of the order by the Hon'ble Tribunal vide its judgment and order dated 27-7-2000 in O.A. No. 672 of 1996;

8.3 Pass an order or direction to the respondents to accord promotion to the applicant on the post of ASM grade Rs.5000-8000/- from 24-10-94 i.e. the date from which his next junior was promoted with all other consequential benefits including seniority, arrears etc. with 12% interest;

8.4 Pass such other or further order as may be deemed fit and proper in the circumstances of the case;

8.5 Award cost throughout as against the respondents."

2. The brief facts, giving rise to this O.A., are as follows:

Initially the applicant was selected through Railway Recruitment Board for the post of Assistant Station Master in the grade of ₹1200-2040/- (RPS) in Central Railway, Jhansi Division and he was accordingly posted on 17.09.1987 at Chhata Railway Station. On 18.09.1992 when the applicant was working at Kitham Railway Station, a charge sheet (SF-V) dated 18.09.1992 was served upon him, inquiry was made and ultimately respondent No. 4 passed the punishment order dated

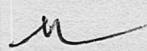


28.08.1993 imposing the punishment of W.I.T. for three years with cumulative effect.

3. The applicant preferred an Appeal before the Appellate Authority on 01.12.1994, when no order was passed on the Appeal, the applicant filed O.A. No. 672/1996 Mohan Singh Vs. Union of India and others against the impugned order passed by the Disciplinary Authority. The O.A. was decided by the Tribunal on 27.07.2000 in favour of the applicant. The applicant sent a representation along with copy of the aforesaid Order of the Tribunal to the respondents on 28.09.2000. Thereafter, respondent No. 4 issued letter dated 19.09.2000 along with copy of the finding report of Inquiry Officer attached with a disagreement note of respondent No. 4 requiring him to show cause by submitting his reply within 15 days. The applicant submitted a reply to the show cause notice on 03.10.2000. The respondent No. 4 passed the punishment order dated 31.10.2000 imposing the punishment of W.I.T. for three years with cumulative effect. The applicant preferred an Appeal on 21.11.2000 against the punishment order. The Appellate Authority upheld the punishment order passed by the Disciplinary Authority without application of mind.



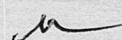
4. The applicant has already suffered the punishment awarded to him earlier as his three increments were already stopped from 07.04.1994 which came to an end in the year 1997. The applicant was not promoted though his juniors were promoted since 24.10.1994. After expiry of earlier punishment, already undergone by the applicant, he was promoted in A.S.M. Grade ₹5000-8000/- w.e.f. 01.04.1997 instead of 24.10.1994. The arrears of pay and allowances already deducted by the respondents were also not paid to him and again the applicant has been awarded with the punishment mentioned above by order dated 31.10.2000. Thus, the respondents have imposed double punishment for the same charge which is against the principle of law and natural justice. Hence, this O.A. was filed by the applicant mainly on the ground that the disagreement note given by respondent No. 4 against the inquiry report of the Inquiry Officer is arbitrary, perverse and prejudicial, the Disciplinary Authority and Appellate Authority did not apply their mind and judicial approach in considering the inquiry report and the reply given by the applicant. The applicant cannot be punished twice for the same offence. There was no fault of the applicant for which he has been charge sheeted and punished. The line clearance was not given as a matter of protest against the activities of officers



who did not supply drinking water as usual it was done earlier.

5. The respondents have contested the O.A. and filed Counter Reply denying the allegations made by the applicant contending that in the year 1992, the applicant was posted at Kitham railway station as Assistant Station Master and he was required to manage the operation of trains and also to maintain the trains at Kitham railway station. On 27.03.1992 when the applicant was on duty at the said railway station from 16 hours to 24 hours i.e. from 04.00 p.m. to 12 at night. He did not give clearance to Malwa Express train No. 4068 on the ground that the *jersey* *of water* water canes could not be supplied at Kitham Railway Station by 1345 *down*. His refusal to give line clearance resulted in detention of Train No. 4068 Up at Farah station for 09 minutes and subsequently caused detention of train No. 1188 Up for 07 minutes at Bad station and 08 minutes at Farah station as train No. 1188 Up was following Malwa Express. On account of deliberate detention of the train, the applicant was charge sheeted by the competent disciplinary authority and an inquiry was made against him. Copy of inquiry report was given to him against which he submitted his explanation and, after considering the inquiry report and his explanation,

punishment as mentioned above was imposed upon him. The Tribunal vide its Order dated 27.07.2000 had set aside the order of punishment with certain directions to the respondents for proceeding against the applicant after giving him copy of inquiry report and an opportunity to show cause within the stipulated period. In compliance of that Order, the applicant was supplied with the copy of inquiry report and all other documents. The reply submitted by the applicant and the inquiry report were duly considered and after finding him 'negligent on duty', the competent authority passed the punishment order. No railway employee on duty has been given any right or power to act other than the work assigned to him by the department. It is further submitted by the respondents that the direction of the Tribunal given in O.A. No. 672 of 1996 has been fully complied with and the difference of pay has been paid to the applicant vide CO 7 No. 20804 dated 13.08.2001. The respondents paid the difference of wages to the applicant whatever was deducted in pursuance to punishment order. The applicant is not entitled to get promotional benefits during the pendency of DAR case. The direction of Tribunal was to proceed with the inquiry from the stage of supplying the inquiry report. Hence, the question of promotion of the applicant during that period does not arise. In compliance of Order of the



Tribunal, the punishment order was set aside and, basic pay of the applicant was restored and the payment of difference of pay has also been made to the applicant vide CO 7 No. 20804 dated 13.08.2001. It is incorrect to say that the double punishment has been awarded to the applicant for the same charge. The punishment given to applicant which he has suffered from 01.04.1994 to 31.03.1997 was set aside by the railway administration and the difference of payment has been arranged for the applicant, as such, only one punishment has been imposed on the applicant. The applicant has got no case and the O.A. deserves to be dismissed.

6. The applicant has filed the Rejoinder Affidavit mainly reiterating the stands earlier taken in the O.A.

7. The applicant, in addition to pleadings, has placed reliance on documentary evidence which is annexure A-1 to annexure A-9 on record.

8. On the other hand the respondents have not filed any documentary evidence in support of their contention.

9. Heard learned counsel for the parties and perused the papers on record.



10. After perusal of pleadings on record, it is revealed that mainly three points arise for discussion. First point is as to whether the applicant has been punished without sufficient evidence on record in the inquiry report; second point is as to whether the applicant has been punished twice for the same charge/offence and third point is as to whether the applicant has not been paid the arrears of pay and allowances and other consequential benefits due to earlier punishment suffered by him for the same charge.

11. As regards first point, it is submitted by learned counsel for the applicant that the applicant was not at fault and the charge sheet submitted against him was without any basis. It is further submitted by learned counsel for the applicant that at the relevant date there was no water at all for drinking of staff and the passengers at Kitham Railway Station. Since the water at Kitham Railway Station was salty and undrinkable, an arrangement was made that every day 5 jerry canes of water were sent daily for drinking purposes at Kitham Railway Station by down train from Agra Cantt. as per the order of Area Manager, Agra Cantt. Earlier it was being supplied from Agra Cantt. and there was an understanding to that effect between the Station Master of two railway stations. When on the relevant date, no water

was sent at Kitham Railway Station, the applicant made a complaint to the SCOR 19/- to 1/- Sri D.L. Yadav, who had refused supply of water. The applicant and other staff of the railway station being thirsty had no option but to stop the clearance of line and hence green signal was not given in protest and train No. 4068 was detained at Farah Railway Station for 11 minutes. When assurance was given to the applicant by the then Controller, Agra to arrange the water supply, immediately line clearance was given by the applicant. On the strength of these facts, it has been submitted by the applicant's counsel that the applicant has committed no fault or negligence and the charge levelled against him was baseless. On the other hand, the respondents' counsel has submitted that the applicant as Assistant Station Master of the Railway Station Kitham was duty bound to give line clearance irrespective of the fact that the water supply was not made on that date. Under no circumstances, the applicant got the right to withhold the line clearance by not giving green signal and detaining the train unnecessarily. The punishment awarded to him after thorough inquiry was just and proper. The applicant's counsel could not show any provision under the Indian Railway Establishment Manual that on such grounds the applicant had a legal right to detain the trains. In normal circumstances, the

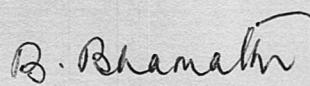
applicant was expected to discharge his duty even if water supply was not made. Thus, the first point goes against the applicant and it is concluded that there was no justification in not giving line clearance and thereby detaining the trains.

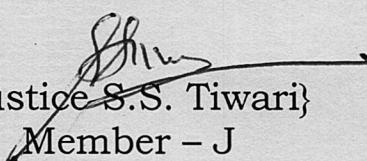
12. As regards points Nos. 2 and 3, it is true that three increments of the applicant were already ordered to be stopped from 07.04.1994, against which applicant filed O.A. No. 672/1996 and by the time Order of the Tribunal has been passed, applicant has already suffered the punishment given to him till 1997 and, again after the Order of Tribunal, the punishment order was set aside, fresh punishment order was passed by the respondents. It is submitted by the respondents' counsel that after the direction of Tribunal in O.A. No. 672/1996, the punishment order was set aside and the basic pay of applicant was restored and the payment of difference of pay and allowances was also made vide CO 7 No. 20804 dated 13.08.2001. Thus, only one punishment for the said charge has been imposed upon the applicant. The applicant has not been able to show that what amount of arrears of pay and allowances or any benefit of that period i.e. from 1994 to 1997 is still not being paid to him. Only a general allegation has been made to which the



respondents have specifically replied that the difference of pay and allowances has already been paid to the applicant. It is worth to mention that if any amount of pay or any other financial benefits of the applicant for the period earlier to his punishment is not being paid to him, he has to specify the same in the O.A. As regards promotion of the applicant in that period, it has been replied by the respondents that as the applicant was under the punishment, his promotion was not made at that time and after expiry of that period, he was promoted. Thus, these points No. 2 and 3 also do not support the applicant's contentions.

13. In view of the above facts, circumstances and discussions, we are of the view that the applicant has got no case and the O.A. deserves to be dismissed. Accordingly, O.A. is hereby dismissed. No order as to costs.


(Ms. B. Bhamathi)
Member - A


{Justice S.S. Tiwari}
Member - J