

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD

THIS THE 30<sup>th</sup> DAY OF September, 2011

HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER (J)  
HON'BLE MR. D. C. LAKHA, MEMBER (A)

ORIGINAL APPLICATION NO. 1263 OF 2007  
(U/S 19, Administrative Tribunal Act, 1985)

Suraj Prasad Tripathi, S/o Shri Dwarika Prasad Tripathi,  
aged about 56 years, R/o 60/2; site No.1, Kydwai Nagar,  
Kanpur - 208011.

.....Applicant

V E R S U S

1. Union of India - Notice to be served upon - The General Manager, North Central Railway, Allahabad.
2. The Additional Divisional Railway Manager, North Central Railway, Allahabad (The Revisional Authority).
3. The Deputy Chief Traffic Manager, North Central Railway, Kanpur (The Appellate Authority).
4. The Divisional Commercial Manager, North Central Railway, Allahabad (The Disciplinary Authority).
5. Shri Arvind Kashyap, Commercial Inspector (II), North Central Railway, Kanpur (The Inquiry Officer)

.....Respondents

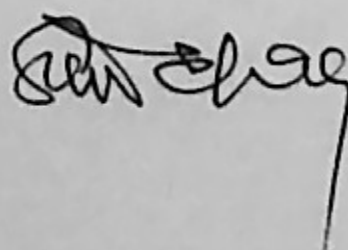
Present for the Applicant: Sri V. R. Dwivwadi.

Present for the Respondents: Sri Bashist Tiwari.

O R D E R

Instant O.A. has been instituted for the following relief/s:-

"A. The Hon'ble Tribunal may graciously be pleased to quash the impugned order dated 11.01.2007,





27.02.2007 & 28.11.2007 and Inquiry Report dated 22.07.2006 mentioned in Para 1 above i.e. Annexure A-1, A-2 & A-3 (Compilation-I) as well as the said enquiry Report dated 22.07.2006 pertaining to applicant.

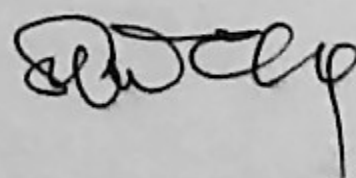
B. The Hon'ble Tribunal may further be graciously be pleased to direct the respondents not to take revengeful and vengential attitude and actions against the applicant in the matter & so reinstating him back to duty with all consequential benefits in the matters.

C. The Hon'ble Tribunal may further be also graciously be pleased to compensate the applicant for losses and injuries in the matter on account of aforesaid actions of the Respondents relating to Non-Est & without competence & jurisdiction as well as against law & Statutory Rules & thus imposing injuries and hurts to applicant and his family.

D. The Hon'ble Tribunal may also graciously be pleased to award heavy costs against Respondents for imposing this litigation & proceedings here & hither-to."

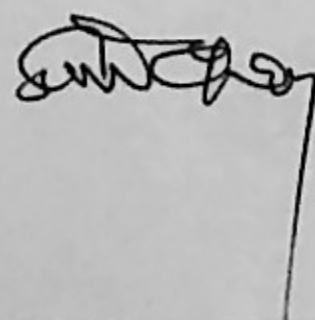
2. The pleadings of the parties may be summarized as follows:-

It has been alleged by the applicant that the respondents No.2 without having competency and jurisdiction in the matter in view of the





Full Bench judgment of the Tribunal and the Hon'ble Apex Court issued memorandum of charge against the applicant on dated 08<sup>th</sup> November, 2001 in contravention to the statutory rules and law and objections were raised in this connection on dated 15<sup>th</sup> November, 2001 and it was also requested that the reply will be submitted after submission of defence helper. That the charges framed against the applicant were denied as the same were vague and unspecific that instead of deciding objections so raised by the applicant on 15<sup>th</sup> November, 2011. That the nomination was made of the inquiry officer for conducting the inquiry without any letter of authority of appointment having been issued by the alleged disciplinary authority (Respondent No.04) and Sri S. L. Rastogi, Commercial Inspector, Kanpur was appointed as 'Inquiry Officer' (hereinafter referred to as I.O.) and the applicant raised objection against Sri S. L. Rastogi. The I.O. conducted the inquiry without deciding the objections of the applicant. Thereafter, respondent No.4 on his own and without intimation to the applicant appointed another





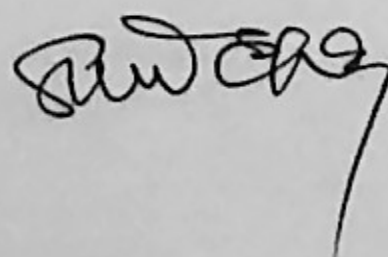
I.O. Sri D. K. Mukherji, Commercial Inspector, Allahabad as I.O. in place of Sri R. K. Rastogi and, thereafter, respondent No.4 appointed Sri Arvind Kashyap (respondent No.5) as I.O. replacing Sri D. K. Mukherji, these appointments were made against the rules. Sri Arvind Kashyap (respondent No.5) when started functioning in derogation to statutory rules as I.O. then applicant made allegations against him of biasness before the Revisional Authority i.e. Divisional Railway Manager, North Central Railway, Allahabad on dated 24<sup>th</sup> July, 2003. But the respondent No.5 without caring allegations made against him proceeded with the inquiry, hence inquiry proceeding is in violation of the rules and <sup>here a non est</sup> ~~non est~~. Respondent No.5/I.O. conducted the inquiry adamantly and obstinacy conducted the proceedings of inquiry ex-parte and submitted inquiry report dated 22<sup>nd</sup> July, 2006 about the guilt of the applicant. The inquiry report submitted by the I.O. Mr. Kashyap was in violation of rules and law in the matter and he committed various offences under the Indian Penal Code. And the respondent No.4 after receipt of the report of the I.O. served

*Swat*



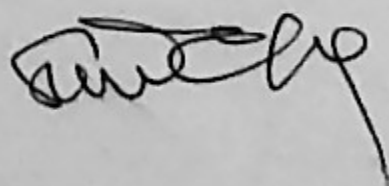
notice to the applicant and applicant submitted the reply of the show cause notice on dated 19<sup>th</sup> October, 2006 and the point was raised regarding competency and jurisdiction of the respondent No.4 as I.O.. The punishment order was passed against the applicant illegally and against the rules appeal was also dismissed by the respondent No. 3 on dated 27<sup>th</sup> February, 2007. Revision Petition was also filed on 12<sup>th</sup> April, 2007 before the D.R.M. and Revision Petition was transferred to A.D.R.M. and the same was dismissed by the A.D.R.M. on the ground that it is time barred. That all allegations made against the applicant are false. And the I.O. was biased and the appointment of the I.O was without any competency and jurisdiction and liable to be set asided.

3. Respondents contested the case and filed Counter Reply and denied from the allegations made in the O.A.. It has further been alleged that the O.A. is barred by limitation. It has further been alleged that on the report dated 19<sup>th</sup> October, 2001 of Chief Parcel Supervisor, Kanpur Central a major penalty charge-sheet was





issued on 03<sup>rd</sup> November, 2001 and the charges were leveled against the applicant that while he was working in Parcel Office and manning post No.4 on 12<sup>th</sup> December, 2011 in 08-16 hrs. shift applicant unauthorizedly and with ulterior motives broke the seal of first compartment of S.L.R. which was loaded with three consignments and violated the extent instructions willfully and also misbehaved with Sri R. C. Lal BIC/PC on duty at platform and tried to beat/manhandle him by catching the collar of his shirt in presence of other staff. That the applicant is habitual misbehavior, showing disregard towards orders of superiors. The inquiry was conducted as per rules. The I.O. submitted his report on 01<sup>st</sup> August, 2006 and according to the report of the I.O. charges were proved against the applicant and the Disciplinary Authority (for short D.A.) imposed the punishment of removal from service. The allegations made by the applicant regarding competency and jurisdiction of respondent No.4 were wrong and the charge sheet was signed by the Divisional Commercial Manager (D.C.M.) who is competent as per D&A rules and it was perfectly in accordance with the latest policy



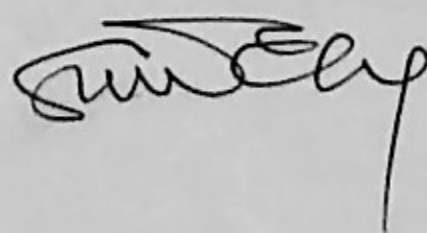


invogue since 1998 in Allahabad Division. After receipt of the defence reply dated 15<sup>th</sup> November, 2001 respondent No.4 appointed I.O. Sri S. L. Rastogi to conduct the inquiry against the applicant. The applicant required to suggest the names of defence helper, but instead of suggesting the names of defence helper applicant submitted letter dated 21<sup>st</sup> December, 2001 to I.O. raising objections against I.O. that his appointment is ~~incompetent~~ <sup>illegal</sup> as the competency of D.A. has already been challenged. Thereafter, different dates were fixed by the I.O. and the objections were raised by the applicant before the I.O. that he can not proceed with the inquiry against the applicant due to incompetency of the D.A.. The applicant did not cooperate in the inquiry and the applicant on 04<sup>th</sup> March, 2003 made allegations against the I.O. that he is acting with biasness without being independent impartial and hence the inquiry was not conducted by the I.O.. Several allegations were made against the I.O. and as allegations were made against the I.O. by the applicant hence Sri D. K. Mukherji was appointed as I.O., but he showed his inability in

*[Signature]*



conducting the inquiry and hence Sri Arvind Kashyap was appointed as I.O.. The nomination of the I.O. was done as per rules and the I.O. was changed on the representation of the applicant, although, Sri S. L. Rastogi was changed, but there was no substance in the allegation of the applicant against I.O.. The applicant adopted dilatory tactics. So many times applications were moved by the applicant for change of I.O. on the ground of biasness, but this contention was not tenable always, hence Sri Kashyap was directed to conduct the inquiry as per rules, the applicant was requested by I.O. to cooperate in the inquiry. The applicant whenever attended the inquiry has left unauthorizedly and even threatened the I.O. vide your letter dated 05<sup>th</sup> August, 2003 stating that action under sections 166 & 167 I.P.C. will be taken if need be. The I.O. fixed 28 times 28 dates, but the applicant did not cooperate in the inquiry and ultimately the I.O. submitted his report on 01<sup>st</sup> August, 2006. Representation was submitted by the applicant against the inquiry report on 19<sup>th</sup> September, 2006 and the case was put up before the D.A. for decision.

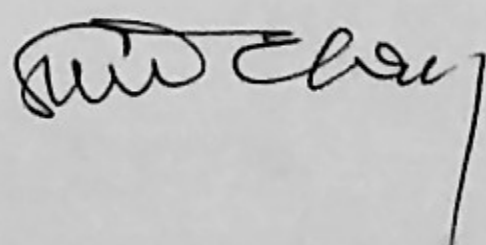




The representation of the applicant was irrelevant and the I.O. did not violate any statutory rules. The applicant tried to speak irrelevant things about the I.O. and the inquiry proceedings. The Respondent No.4 directed the applicant to state about the defence instead of leveling allegations against the I.O., but he did not give any reply of the charges leveled against the applicant hence order of the punishment was imposed against the applicant. Appeal was also dismissed by the Appellate Authority by reasoned and speaking order. The Revisional Authority also passed the order according to law. That the O.A. is devoid of merits and liable to be dismissed.

4. After filing the Counter Reply by the respondents on behalf of the applicant one Rejoinder Reply has also been filed and in the Rejoinder Affidavit the allegations made in the Counter Reply have been denied.

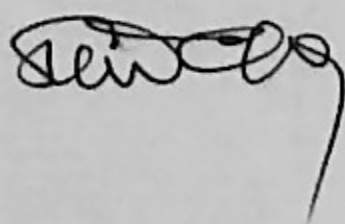
5. We have heard Sri V. R. Dwivedi, Advocate for the applicant and Sri Bashist Tiwari,





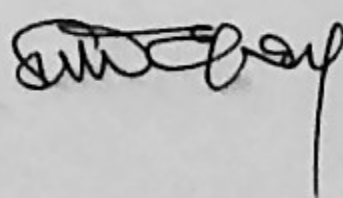
Advocate for the respondents and perused the entire facts of the case.

6. From perusal of the pleadings of the parties it is evident that a charge sheet was served on the applicant by the respondents No.4 i.e. D.A. for major punishment. A report was submitted by one R. C. Lal that while he was working in Parcel Office and manning post No.4 on 12<sup>th</sup> December, 2011 in 08-16 hrs. shift applicant committed serious irregularities. Firstly, applicant unauthorizedly and with ulterior motives broke the seal of fist compartment of S.L.R. which was loaded with three consignments and in this manner applicant violated the extent instructions willfully. Secondly, the applicant was charged that he misbehaved with Sri R. C. Lal BIC/PC on duty at platform and tried to beat/manhandle him by catching the collar of his shirt in presence of other staff and he shouted and abused the BIC/PCs. Thirdly, he is habitual <sup>or</sup> misbehavior, showing disregard towards orders of superiors and violated the rules. After receipt of the report of Sri R. C. Lal, & applicant was





required to submit his defence and applicant instead of submitting his reply against the allegations made against him he challenged the competency of the authority of the respondent No.4/D.A.. Moreover, the charges leveled against the applicant were also denied as are vague and unspecific. Thereafter, on receipt of the reply of the applicant D.A. appointed the I.O. Sri S.L. Rastogi to enquire about the allegations made against the applicant. It has also been alleged by the respondents that the applicant did not cooperate in the inquiry to the I.O. and allegations were made against Sri S. L. Rastogi of biasness and in-competency of the D.A. ultimately I.O. was changed and Sri D. K. Mukherji, Commercial Inspector was appointed, but he showed his inability in conducting the inquiry, hence Sri Arvind Kashyap/respondent No.5 was appointed as I.O. to conduct the inquiry. As many as 28 dates were fixed during the inquiry proceedings, but the applicant did not cooperate in the inquiry and continued to harp<sup>on</sup> the same tune that D.A. was not competent to serve the charge sheet on the applicant and to appoint the I.O. and as the entire proceeding





is in violation of the rules, hence it is nonest. Whereas, it has been alleged by the respondents that the inquiry conducted against the applicant as per rule, but the attitude of the applicant was non-cooperative and he continued to make allegations against the D.A. as well as I.O., as many as 28 dates were given and one I.O. was changed on the representation of the application, but the applicant against two subsequently appointed I.O. also continued to make the same allegations and in-competency of the D.A.. That as per rules respondent No.4 was fully competent to act as D.A. and to appoint the I.O. to enquire about the allegations made against the applicant and the inquiry was properly conducted by Sri Arvind Kashyap and he submitted inquiry report and no defence was submitted by the applicant during the inquiry.

7. Learned counsel for the applicant mainly argued that respondent No.4 was not competent authority to initiate inquiry against the applicant and to appoint I.O. and also to impose punishment. That only <sup>D</sup> General Manager was

*Arvind Kashyap*

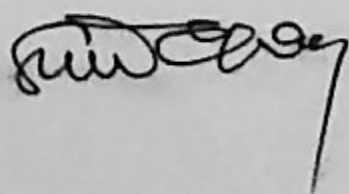


competent to conduct the inquiry against the applicant and to appoint the I.O.. Whatever allegations were made against the I.O. and D.A. are regarding in-competency otherwise no allegations have been made against the D.A. and I.O. about the personal biasness. Moreover, on the objection of the applicant one I.O. Sri S. L. Rastogi was changed by respondent No.4 and Sri D. K. Mukherji was appointed as I.O., but he showed his inability in conducting the inquiry hence Sri Arvind Kashyap was appointed as I.O.. The applicant in the O.A. beside alleging the in-competency of the respondent N.4 of serving the charge sheet and passing the order of appointment of the I.O. and imposing the order of punishment also alleged that the I.Os. were changed by the respondent No.4 on his own accord without intimation to the applicant. We disagree with the contention of the applicant and the applicant is ~~not~~ to be consulted regarding appointment of the I.O. and it is wrong to allege that prior intimation ought to have been given in order to change the I.O.. After the appointment of the I.O. duly notice was given by the I.O. to participate in the

*swamy*



inquiry and cooperate in expeditious conclusion of the inquiry. Learned counsel for the applicant placed reliance on the various judgments of the Hon'ble Apex Court, Full Bench of the C.A.T., Hyderabad bench and the order passed by the C.A.T., Allahabad Bench in O.A. No.1190 of 2005. It will be material to consider the judgment of the Hon'ble Supreme Court reported in 1991 SCC (L&S) 355 Scientific Adviser to the Ministry of Defence and Ors. Vs. S. Danial and Ors. Learned counsel for the respondents also placed reliance on this judgment of the Hon'ble Supreme Court. We have perused the judgment of the Hon'ble Apex Court. The Hon'ble Apex Court held that in relation to rule 9 that incase of any Gazztted Railway servant an authority competent to impose any of the major penalties specified in Rule 6 and the power can also be delegated to the inferior authority. And if the power to make appointment has been delegated to the subordinate authority then the said authority is competent to initiate disciplinary proceedings under the rules. It is also relevant in view of CCS (CCA) 1965 that the authority empowered to make appointment and the





authority who actually made the appointment are also relevant and a person who has been authorized for making actual appointment and the authority status under delegated power. It has not been provided in this judgment of the Hon'ble Court that the authority inferior to appointing authority is not competent to make appointment. It is a known fact that a person inferior to the appointing authority cannot be the D.A. for the purpose of imposing the punishment. It has been argued by the learned counsel that the General Manager is competent to make the appointment in Group 'C' (Non-gazetted) post of the applicant, but the appointment letter has not been filed by the applicant in order to show that the applicant was actually appointed by the General Manager and not by the Divisional Commercial Manager, N.C.R., Allahabad. If the Divisional Commercial Manager is competent to make the appointment of Class-'C' employees then he can also act as disciplinary authority. Moreover, appointing authority in relation to the railway servant has also been defined in the Railway Servants (Discipline & Appeal) Rules, 1968 and rule 2,

*swc*



1(A) the competent authority has been defined in the relevant rule is essential to be reproduced:-

"2(1). In these rules, unless the context otherwise requires -

(a). 'Appointing Authority' in relation to Railway servants means:-

(i). the authority empowered to make appointments to the Service of which the Railway servant is, for the time being, a member or to the grade of the Service in which the Railway servant is, for the time being, included, or.

(ii). the authority empowered to make appointments to the post which the Railway servant, for the time being holds, or

(iii). the authority which appointed the Railway servant to such Service, grade or post, as the case may be, or

(iv). where the Railway servant having been a permanent member of any other Service or having substantively held any other permanent post, has been in continuous employment under the Ministry of Railways, the authority which appointed him to that service or to any grade in that Service or that post,

Whichever, authority is the highest authority."

And the appointing authority is also the disciplinary authority and he can impose the punishment as provided under Rule 9 of the

*Stacy*



Railway Servants (Discipline & Appeal) Rules, 1968.

8. Learned counsel for the applicant also placed reliance on the Full Bench judgment of C.A.T. Hyderabad Bench reported in (1988) 6 Administrative Tribunal Cases 675 Gafoor Mia Vs, Director DMRL and Ors. and on the basis of this judgment learned counsel for the applicant argued that the D.A. in the case of Group-'C' and Group 'D' employees is the General Manager and he alone is competent authority who can only impose the punishment, but the Hon'ble Apex Court in case of 1991 SCC (L&S) 355 Scientific Adviser to the Ministry of Defence and Ors. Vs. S. Danial and Ors. held that if the power to make appointment has been delegated to the inferior authority then he can also act as D.A., and the judgment of the Hon'ble Apex Court was passed in the year 1991 whereas, the Full Bench decision of the C.A.T., Hyderabad Bench is of the year 1988 and moreover the judgment of the Hon'ble Apex Court is binding.

*stutley*



9. Reliance has also been placed by the learned counsel for the applicant on the judgment reported in 1987 4 Administrative Tribunal Cases 626 C.A.T. Cuttack Bench Climent Dungdung Vs. Union of India and Ors. In this judgment it has been held that the appointment of the I.O. before receipt of explanation to be submitted by the employee within the prescribed time in response to the charge sheet issued to him indicates close mind of the D.A., but this judgment of C.A.T. Cuttack Bench is not applicable in the present case, because in the present case the D.A./Respondent No.4 appointed the I.O. Sri S. L. Rastogi after receipt of the reply of the applicant and it has been provided that the appointment of the I.O. shall be made after receipt of the reply of the employee concerned. In the present case there was no violation of this specific law. And the appointment has only been challenged mainly on the ground of in-competency of Respondent No.4, and as per rules it appears that respondent No.4 who was the appointing authority of the applicant, duly appointed Sri S. L. Rastogi as I.O. in the case of the applicant, thereafter,

*Sutchar*



on the objection of the applicant of biasness Sri D. K. Mukherji was appointed as I.O., but Sri D. K. MUKherji showed his inability in conducting the inquiry due to other reasons, hence Sri Arvind Kashyap/Respondent No.5 was appointed as I.O.. While conducting the inquiry by Sri Arvind Kashyap no allegation was made against Sri Arvind Kashyap of personal biasness, but the allegation was made against Sri Arvind Kashyap of in-competency of the respondent No.4 regarding appointment of the I.O.. That applicant continued to make allegations against all I.Os. and it can be presumed and inferred that the applicant had been adopting the dilatory tactic in conducting the inquiry. And it was due to the adamant and dilatory tactics of the applicant the inquiry continued to drag on for a number of years. The charge sheet was served on the applicant in the year 2001 and the I.O. was also appointed in the year 2001 and the inquiry report was submitted by the Sri Arvind Kashyap in the year 2006. As many as 28 dates were fixed for conducting the inquiry and requests were made by the I.O. to the applicant to participate in the inquiry and to cooperate

*Sutclay*



in the inquiry, but his attitude had been of indifferent nature and he continued to harp <sup>on</sup> the same tune of making allegations against the I.O. of biasness and in-competency. Once I.O. was changed, but again the applicant continued to made allegations against the subsequent I.O. and ultimately Sri Arvind Kashyap concluded the inquiry as the applicant failed to cooperate in the inquiry and in submitting the reply in defecne, there was no option to the I.O. but to conduct the inquiry without cooperation of the applicant. There appears nothing abnormal or illegal in the inquiry proceedings conducted by Sri Arvind Kashyap.

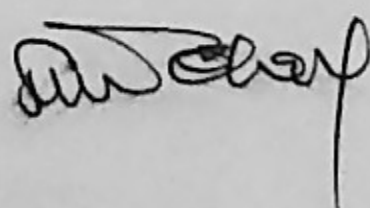
10. Moreover, the allegations have also been made against Sri Arvind Kashyap of biasness, as we have stated above that applicant made allegations of biasness against the earlier I.O. Sri S. L. Rastogi and on the objection of the applicant Sri S. L. Rastogi was changed and another I.O. was appointed and the applicant remained unsatisfied from the subsequent I.O. also. That the applicant continued to made allegations and the purpose and object of the

*Sri Arvind Kashyap*



applicant was to circumvent the matter, and instead of cooperating in the inquiry the applicant continued in making allegations against the respondents. Learned counsel for the respondents cited a judgment of the Hon'ble Apex Court reported in Judgment Today 2009 (10) 472 Airports Authority of India v. Rajeev Ratan Pandey & Ors. The Hon'ble Apex Court held regarding making allegations of biasness against the I.O. as follows:-

"5. In the case of State of U.P. v. Gobardhan Lal [JT 2004 (5) SC 454: (2004) 11 SCC 402], while dealing with a matter of transfer, this Court observed that allegations of mala-fides must inspire confidence of the Court and ought not to be entertained on the mere asking of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference would ordinarily be made with an order of transfer. That the burden of proving mala-fides in on a person leveling such allegations and the burden is heavy, admits of no legal ambiguity. Mere assertion or bald statement is not enough to discharge the heavy burden that the law imposes upon the person leveling allegations of mala-





*fides; it must be supported by requisite materials."*

Hence, in view of the Hon'ble Apex Court mere allegations of biasness is not sufficient against the I.O. and it must be supported by some cogent and convincing evidence, but the applicant continued to make allegations against the I.O., but no substance was furnished against the I.O. of biasness, hence in view of the judgment of the Hon'ble Supreme Court no reliance can be placed on the allegations of the applicant, and this contention of the applicant's Advocate is unjustified that the I.O. was suffering from biasness against the applicant as nothing has been alleged in the O.A. that what was the biasness of the I.O. against the applicant and mere allegation is not sufficient.

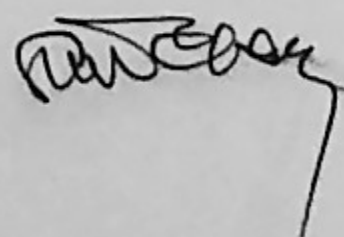
11. Learned counsel for the respondents cited rule 215 of Railway Establishment Code Vol-I Addition 1985 Chapter II page 19 and it has been provided in this rules that who is competent to make appointment of non-gaztted post and it has been provided that the General Manager or the

*Sub Chy*



lower authority whom he may delegate the power to make appointment. We have stated above that the applicant belongs to Group 'C' category hence a lower authority to the General Manager is competent to make the appointment of the applicant and it has not been disputed by the learned counsel for the applicant also that the applicant was appointed by the General Manager in Group 'C' employee. It has also been argued by the learned counsel for the respondents that every efforts were made by the I.O. that applicant may participate in the inquiry, but he did not participate in the inquiry. Sri S. L. Rastogi, I.O. was changed and he was changed on the objection of the applicant, thereafter, another I.O. was appointed and allegations were made by the applicant against the subsequent I.O. also.

12. It has also been alleged by the learned counsel for the respondents that appeal was filed by the applicant against the order of the D.A. and the appeal was dismissed by the Appellate Authority by reasoned and speaking order, annexure-A-2 is the copy of the order of





Appellate Authority dated 27<sup>th</sup> February, 2007, we have considered the order of the Appellate Authority and in our opinion the appellate authority applied his mind to the objections raised by the applicant. The order of the Appellate Authority was also challenged before the Revisional Authority and the Revision was also dismissed as barred by time, nothing has been alleged by the learned counsel for the applicant that the revision was not barred by time. Moreover, we have considered entire allegations of the respondents and we are of the opinion that the inquiry was properly conducted and the D.A. was competent to pass order of punishment. And the appellate authority considered the appeal and dispose of the appeal by reasoned and speaking order.

13. It has been argued by the learned counsel for the applicant that punishment is not in proportionate of the allegations made against the applicant. We have perused the allegations made against the applicant Firstly, applicant unauthorizedly broke<sup>d</sup> the seal of first compartment of S.L.R. on 12<sup>th</sup> October, 2001 which

*Subcase*



was loaded with three consignments inspite of the objections of the BIC/PC for not opening the S.L.R., but the applicant did not restrain himself only upto this extent, but he misbehaved with Sri R. C. Lal BIC/PC on duty at platform and tried to beat/manhandle him by catching the collar of his shirt in the presence of other staff and he shouted and abused the BIC/PC. That he misbehaved with Sri R. C. Lal BIC/PC and it is not expected from a public servant that he will threaten to thrash/misbehaved with another fellow public servant and he will abuse such an employee at public place, this act of the applicant was of an unbecoming of public servant, hence it cannot be said that the punishment imposed by the respondents is not in consonance <sup>with</sup> ~~of~~ the allegation of misconduct.

14. For the reasons mentioned above we are of the opinion that there were serious allegations against the applicant of unauthorizedly breaking the seal of first compartment of S.L.R. on 12<sup>th</sup> October, 2001 and also of misbehaving with Sri R. C. Lal BIC/PC on duty at platform, these allegations amount<sup>to</sup> to gross misconduct against

*Sunil*



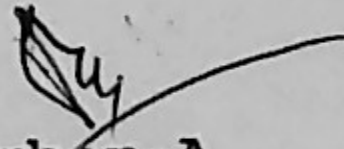
the applicant. That the respondent No. 4 was the D.A. of the applicant as he was appointing authority of the applicant/group-'C' employees and he was fully competent to serve the charge sheet on the applicant and in making appointment of the I.O.. The I.O. was duly appointed firstly, Sri S. L. Rastogi was appointed and subsequently on the objection of the applicant Sri Arvind Kashyap was appointed as I.O. and efforts were made by the I.O. that applicant may cooperate in the inquiry, but he did not cooperate in the inquiry and continued to make allegations against the I.O. as well as D.A. and he threatened the I.O. that he will initiate criminal proceedings against the I.O.. The I.O. was well within his powers in conducting the inquiry as per the orders of the D.A. and it was not expected from the applicant that his attitude remained indifferent to the I.O. and he continued to harp <sup>on</sup> the same <sup>line</sup> ~~tune~~ in order to circumvent allegations made against him. Dilatory tactics were adopted by the applicant in delaying the inquiry. As many as 28 dates were given to the applicant to participate in the inquiry, but the applicant remained absent

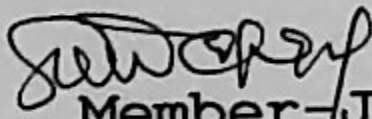
*Shukla*



from participating in the inquiry and continued to make allegations against the I.O.. The action of the applicant was most <sup>unbecomg</sup> ~~undeserving~~ of a public servant. In our opinion O.A. lacks merits and liable to be dismissed.

15. O.A. is dismissed. No order as to costs.

  
Member-A

  
Member-J

/Dev/