

Removal
yes

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

(3)

O.A. No.
~~T.A. No.~~

595 OF 1988

DATE OF DECISION 20-08-1991

Mr. Jayantilal Doodhreja, Petitioner

Mr. M. D. Rana Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. R. M. Vin Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M. M. Singh : Administrative Member

The Hon'ble Mr. S. Santhana Krishnan : Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? Yes

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Mr. Jayantilal Doodhreja,
Bhagwatpara Marg No.37,
Sheri No.16,
Bawawal,
GONDAL.

...Applicant.

(Advocate : Mr. M.D. Rana)

Versus

Union of India and others,
Through : General Manager,
Churchgate,
Bombay - 400 020.

Divisional Railway Manager,
Western Railway,
Bhavnagar Para,
Bhavnagar.

...Respondents.

(Advocate : Mr. R.M. Vin)

O.A. NO. 595 OF 1988.

J U D G M E N T

Date : 20-08-1991

Per : Hon'ble Mr. S. Santhana Krishnan : Judicial Member

The applicant has come forward with this application under Section 19 of the Administrative Tribunals Act, 1985.

2. The facts of the case as we see from the application are as follows : -

The applicant was working as a porter under the respondents from 1.1.1970 onwards. There was a scuffle between the applicant and another Railway employee outside the Railway premises which has no connection in the discharge of the railway duties. A complaint was lodged against him before the police and he was convicted by the Judicial Magistrate First Class on 31.03.1984.

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He preferred an appeal but the sentence was confirmed. Shri Nathu Amarshi also filed a suit for damages and he paid Rs.29,550/- to him by way of compromise. He has filed a early application before the Tribunal, but the same was disposed of as premature as the appeal was pending. The order of removal without conducting any inequiry and without giving any reason is not valid. Hence this petition challenging the removal order and also reinstatement with back wages and other benefits.

3. In the reply it is stated that the applicant was convicted for Criminal Offences under Section 323 IPC and 506 (II) IPC and hence action was taken against the applicant as per the Railway Servant Discipline and Appeal Rules, 1968. There was no violation of any rules or provisions of the Constitution. The appeal is belated and there are no merits for consideration. When the applicant was removed from the service after applying Rule 14 (1) of the Railway Servant's Disciplinary and Appeal Rules, 1968, and as such no inquiry is necessary. Hence the applicant was rightly removed and the order of removal cannot ^{be} quashed. Hence they pray for the ^{dis}missal of the application.

4. Heard Mr.M.D.Rana, learned counsel for the applicant and Mr.R.M.Vin, learned counsel for the respondents. Records Were perused.

5. The applicant was working as a porter under the respondents from 1.1.1970 onwards. It is admitted by the applicant that he was convicted by a Judicial Magistrate First Class, in view of the quarrel between him and another Railway employee. It is seen from Annexure-A/2,

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that the applicant was sentenced to three months imprisonment and was directed to pay a fine of Rs.150/- by the Judicial Magistrate First Class. The applicant preferred an appeal and it is admitted that the conviction was confirmed, but the sentence, was reduced to 7 days imprisonment and to pay a fine of Rs.150/- for ~~final~~ charge and regarding the second charge-5 days imprisonment and a fine of Rs.150/-. It is also admitted that in the quarrel the other Railway employee lost his eye and he has also filed a Civil Suit against the applicant and received Rs.29,550/- as compensation.

6. Though the applicant claims that the quarrel is nothing to do with the discharge of his duties, he has neither produced the Judgment of the Judicial Magistrate of the First Class nor the Judgment of the Appellate Court. Hence we are not in a position to find out what was the quarrel between the applicant and Shri Nathu Amarshi and why he was convicted.

7. Annexure-A/1, is the order of removal passed against the applicant. This order was passed as per Rule-14 (1) of the Railway Servants Discipline and Appeal Rules, 1968. The relevant Rule is as follows : -

Notwithstanding anything contained in Rules 9 to 13 :

(i) Where any penalty is imposed on a Railway Servant on the ground of conduct which has led to his conviction on a criminal charge The disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit.

8. In view of the above said Rule there is no necessity to conduct any inquiry. *[Signature]*

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9. Learned counsel appearing for the applicant placed reliance on a decision reported in (1987)3, Administrative Tribunal Cases, Page.623, (Foola Bapu Versus Union of India (Western Railway)), The observations at Para-7, at page 625 is as follows : -

"It is no doubt true that when the Railway servant is convicted by a Court of law on criminal charge, an action to dismiss, removal or reduction in rank, is to be taken on the basis of his conduct leading to conviction under Rule 14 of the Railway Servants Discipline and Appeal Rules, 1968. In such a case it is not necessary to issue a charge - sheet or observe the usual disciplinary procedure. Thus it cannot be said that the departmental action taken against the petitioner was bad in law, or violative of any provisions of the service rules."

10. This clearly show that there is no basis in the contention of the applicant that the respondents ought to have conducted an inquiry before issuing the order of removal.

11. Further, even Article-311, of the constitution clearly points out that no inquiry is necessary where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge.


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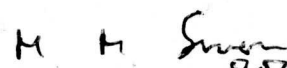
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12. The applicant challenges the order of removal on the ground that it does not disclose any reason, but in Annexure-A/1, it is stated that the reasons as per the Judgment given by Additional Sessions Judge, GDL Court, dated 23.5.1985. This clearly show that the authority applied its mind after the perusal of the above said judgment. As the applicant failed to produce the Judgment copy before us, we are not in a position to find out what was the quarrel between him and the other Railway employee. Though, the applicant claims that the misconduct does not involve moral turpitude and out side scope of the employment of the applicant, he fails to prove the same by producing the copy of the Judgment.

13. As the applicant was sentenced by a competent Criminal Court, the respondents are entitled to remove him from his service without any inquiry in view of Rule-14(1) of the Railway Servants Discipline and Appeal Rules, 1968. As the authority has applied its mind and removed him from service, we find no reason to interfere with the order passed by the Disciplinary authority. The order is not challenged on any other ground.

14. In view of the above discussion we find that the applicant failed to establish any satisfactory ground for quashing the order dated 31.12.1985, and it follows that he is not entitled to claim any of the reliefs claimed in the petition. In the result, the application is without merit and it is liable to dismissed and it is accordingly dismissed. We however make no order as to costs.


(S. Santhana Krishnan)
Judicial Member


(M. M. Singh)
Administrative Member