

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 304 of 1991
~~**F.A.NO.**~~

DATE OF DECISION 12/06/2000

Shri. Lalit Mohan Mishra Petitioner

Mr. K. K. Shah Advocate for the Petitioner [s]
Versus

Union of India & Ors. Respondent

Mr. N. S. Shevde Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. **A. S. Sanghavi** : Member (J)

The Hon'ble Mr. **M. P. Singh** : Member (A)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? ✓
- 2, To be referred to the Reporter or not ? ✓
- 3, Whether their Lordships wish to see the fair copy of the Judgment ? ✓
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? ✓

✓

(6)

- 2 -

Shri. Lalit Mohan Mishra
Head Clerk, working in
W. Rly., Ajmer Division,
Railway Qtr No. 1168 A,
Kachari Road, Ajmer,
Rajasthan.

= Applicant =

Advocate : Mr. K. K. Shah

Versus

1. Union of India,
Notice to be served through,
General Manager (E),
W. Rly., Church gate,
Mumbai : 400 020.
2. Divisional Engineer (T),
W. Rly., Ajmer.
3. Divisional Railway Manager (E),
Divisional Office, W. Rly.,
Ajmer.

= Respondents =

Advocate : Mr. N. S. Shevde

pl

JUDGMENT
O.A 304 of 1991

Date : /06/2000

Per Hon'ble Shri. M. P. Singh : Member (A).

The applicant is aggrieved by the order dated 31.07.1990 issued by the Divisional Engineer (T) Ajmer and order dated 02.05.1990 issued by ADRM (E) Ajmer.

2. The brief facts of the case are that the applicant while working as time keeper under Assistant Electrical Foreman (M) Gandhidham was served with a charge sheet for major penalty on 28.08.1981. The applicant made a request to the Divisional Electrical Engineer, Ajmer to inspect the documents upon which the charge sheet was based. Instead of furnishing the documents which were demanded by the applicant, the Divisional Electrical Engineer, Ajmer nominated an inquiry officer. The applicant again requested for supply of the documents on 27.11.81. The Divisional Electrical Engineer, Ajmer furnished copies of certain documents on 31.03.82. It has been alleged by the applicant that he was given a very short notice by the inquiry officer to participate in inquiry and he could not, therefore, participate in the inquiry. The

✓

inquiry officer submitted his report and thereafter the Divisional Electrical Engineer, Ajmer imposed a major penalty by which his pay was reduced to Rs.260/-(in the scale of Rs.260-400/-) for a period of two years without future effect.

3. The applicant thereafter filed a Civil Suit which was subsequently transferred before the CAT, A'bad Bench as T.A 258 of 87. This T.A was disposed of by the Tribunal with the direction that since the applicant has not exhausted the departmental remedy by way of appeal, he was directed to prefer the appeal before the respondents. The applicant preferred the departmental appeal before the authorities. Subsequently, he received a communication that he has been given a personal hearing on 09.01.90. Since the order of the Disciplinary authority dated 01.10.82 was not a speaking order, the same was cancelled by the appellate authority and the matter was remitted back to the inquiry officer. The Divisional Engineer issued further penalty of reduction to the lowest stage of pay at Rs.1400/- in the scale of Rs.1400-2300/- for a period of two years without affecting seniority and future increment. Aggrieved by this the applicant has filed this O.A seeking directions to quash and set aside the

impugned order dated 31.07.90 and 02.05.90 and to direct the respondents to grant the applicant all consequential benefits of pay scale, increment, promotion etc.

4. The respondents have contested the case and have stated that under Rule-22 (2) (ii) of Railway Service (D & R) Rules 1968, the Appellate authority is competent to remit the case to an authority which imposes or enhances the penalty or to any other authority with such directions as it may deem fit under the circumstances of the case. In the present case, the Appellate authority has remitted the case to the Disciplinary authority for passing a fresh speaking order after considering the pros and cons of the case. It was felt by the appellate authority that all other proceedings were in order except the order of the Disciplinary authority which was not clear cut speaking order. They have also stated that the report of the inquiry officer is very specific, based on oral as well as documentary evidence and after considering the overall evidence, the inquiry officer found the applicant responsible for the charges leveled against him without any doubt. The inquiry was proceeded after the applicant has inspected the documents. All the documents considered relevant were

mk

supplied to the applicant and all reasonable opportunities were given to him. As regard the grounds taken by the applicant under Paras C, D & E, they have stated that the case of the applicant is for the period relating to 1980 whereas the Supreme Court Judgment in the case of Union of India Vs. Mohd. Ramzan Khan reported in JT 1990 (4) S.C. 456 is of 1990. Hence, the Judgment of the Supreme Court which is of later date is not applicable in this case. The respondents have denied all other allegations made by the applicant and have stated that the application deserves to be dismissed.


5. Heard the learned counsel for the ^{respondent} ~~rival contesting parties~~ and perused the records. It is seen from the records that inquiry was conducted against the applicant in accordance with the rules and instructions. He was supplied all the relevant documents required by him and was given due opportunity to defend himself. It is also seen from the record that the applicant did not co-operate with the inquiry officer and in fact he tried to delay the proceedings of the inquiry on one pretext or the other. The charges leveled against the applicant are of very serious nature involving his integrity. It is a well settled law that this Tribunal cannot make

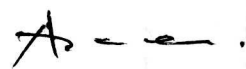
2

appreciation of the evidence and also cannot sit in the Judgment over the findings and the quantum of punishment decided by the disciplinary authority.

6. In view of the aforesaid facts, we do not find any ground to interfere with the orders of the disciplinary authority and the appellate authority imposing the penalty on the applicant.

7. The O.A is therefore devoid of merit and is accordingly dismissed. No order as to costs.


(M. P. Singh)
Member (A)


(A. S. Sanghavi)
Member (J)

Mb