

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No. 267/93
~~Ex-Ax No.~~

DATE OF DECISION 17/9/1993

Shri Jwalaprasad G.Bhatia, **Petitioner**

Mr. M.R.Anand **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. N.B.Patel : Vice Chairman

The Hon'ble Mr. V.Radhakrishnan : Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No

Shri Jwalaprasad G.Bhatia,
Quarter No.666 B.Navayard
D-Cabin, Baroda-2.
(Advocate: Mr.M.R.Anand)

: Applicant

Versus

1. Union of India (Notice to be served through Secretary, Railway Board, Railway Bhavan, Raisina Road, Ministry of Railways, New Delhi),
2. Chief Electrical Engineer, Western Railway, Churchgate, Bombay.
3. Sr.Divisional Elec.Engineer(TRS) Western Railway, Baroda.

: Respondents

(Advocate: Mr.N.S.Shevde)

ORAL JUDGMENT

O.A.267/93

Date: 17/9/1993

Per: Hon'ble Mr.N.B.Patel

: Vice Chairman

Heard Mr.A.M.Raval on behalf of Mr.M.R.Anand.
Mr.N.S.Shevde not called upon to argue.

2. It is totally incorrect to say that there was absolutely no evidence before the disciplinary authority in support of the charge that the applicant had physically assaulted his colleague Shri Meena as Shri Meena himself had adduced evidence to that effect. For very cogent reasons, the disciplinary authority has accepted the evidence of Shri Meena even though that evidence was not corroborated by other evidence. However, since the appellate authority has given benefit of doubt to the applicant on the charge of assault on Shri Meena, the question whether that charge was or was not established

by any evidence, loses all significance. Though the appellate authority and the reviewing authority have not found the applicant guilty of the charge of having assaulted Meena, it is clearly found that the charge of raising slogans during working hours within the loco-shed itself, and that too raising abusive slogans, was proved against the applicant. We have been taken through the relevant parts of evidence and we find that there was evidence to substantiate this charge. This Tribunal cannot sit in appeal over the finding of the disciplinary authority and the appellate authority on that point. The appellate authority and the reviewing authority have reduced the punishment awarded to the applicant, because the charge of assault was held not proved by them beyond reasonable doubt. There being evidence in ^{the other} proof of ~~that~~ charge, we cannot interfere with the finding of the appellate authority and the reviewing authority that the charge was proved. This is not a case of a perverse finding having been reached by the disciplinary and higher authority as regards this charge. We, therefore, find no substance in this particular ground raised by Shri Raval, namely, that the appellate authority has held the applicant guilty of the charge of slogan-shouting without any evidence whatsoever.

3. It was next contended by Shri Raval that the applicant had a right to raise slogans. We do not accept this view, because the charge which is held

proved against the applicant is that, he had raised slogans-abusive slogans-during working hours within the premises of the loco-shed.

4. It was lastly contended by Mr.Raval that the applicant is subjected to hostile discrimination inasmuch as Shri Meena was not charged with misconduct even though there were complaints by a number of workers that he had also indulged in slogans-shouting etc. After preliminary inquiry, it appears, the disciplinary authority had found that Shri Meena was the victim of the misconduct indulged in by the applicant. Therefore, it is not possible to say that the applicant and Shri Meena were similarly situated and there is any discrimination against the applicant inasmuch as he is proceeded against while Shri Meena is not.

5. The contention that the enquiry is vitiated by non-furnishing of preliminary enquiry report to the applicant requires only to be stated for its rejection. The object of preliminary enquiry is only to decide whether a regular enquiry is required to be started against an employee. It is not shown that the report of the preliminary enquiry is in any way relied upon to make out the charge against the applicant. There was other ample evidence to conclude that the charge of slogan-shouting against the applicant was established.

We, therefore, summarily reject O.A.No.267/93
as we find it to be devoid of merit altogether.

MR
(M.Radhakrishnan)
Member (A)

NB
(N.B.Patel)
Vice Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

Application No. 04/267/93 of 199

Transfer Application No. _____ Old writ Pet. No. _____

C E R T I F I C A T E

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated : 05/10/93

Countersigned : J. M. S. 05/10/93

JK Section Officer / Court Officer

Sign. of PD the Dealing Assistant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD BENCH

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