

10
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.111 OF 1995
Cuttack this the day of March, 2002

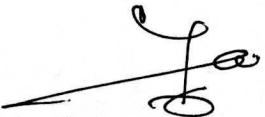
Shri S.V.Ramanayya ... Applicant(s)

-VERSUS-

Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Tribunal or not ?


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(M.P. SINGH)
MEMBER (ADMINISTRATIVE)

10

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.111 OF 1995
Cuttack this the 15th day of March/ 2002

CORAM:

THE HON'BLE SHRI M.P. SINGH, MEMBER (ADMINISTRATIVE)
AND
THE HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)

S.V.Ramanayya,
Son of Late Venkataraao, aged about 53 years,
Assistant Engineer, South Eastern Railway,
Survey and Construction, Sambalpur Division,
At/PO/Dist - Sambalpur, Orissa

By the Advocates ... Applicant
M/s.A.K.Mishra
S.K.Das
B.B.Acharya
A.K.Guru
J.Senapata

-Versus-

1. Union of India represented through its General Manager, South Eastern Railway, Garden Reach, Calcutta-43
2. Chairman, Railway Board, Rail Mantranalaya, New Delhi-1

By the Advocates

Respondents

ORDER

MR .M.P. SINGH, MEMBER (ADMINISTRATIVE): The applicant, in this Original Application under Section 19 of the Administrative Tribunals, Act, 1985, has prayed for quashing the punishment order dated 6.2.1993 vide Annexure-18, as well as the order dated 14.3.1995 (Annexure - 21), passed by the Appellate Authority, rejecting his appeal against the said order of punishment, with all consequential financial and service benefits.

2. The brief facts of this case are that the applicant,

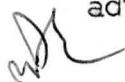
12
while working as Assistant Engineer under the S.E.Railways, Titilagarh was proceeded departmentally, in respect of which the following articles of charges vide Annexure-1 dated 8.9.1987, were issued.

"Article-I: Sri S.V.Ramanaiyya, while functioning as AEN/Titilagarh had recorded fictitious test certificates, in M.B. No.1186 & 1187, against First & final bills Nos. 756 to 762 all dated 26.6.84, without physically verifying the measurements and thereby extended unmeritted benefit to the Contractor.

Article-II: Sri Ramanaiyya during his tenure as AEN/TTG had certified classification of soil or borrow pits and side drains, in respect of 7 Nos. first and final bill No.756 to 762 dt.26.6.84, without visiting the spot and thereby extended unmeritted financial benefit to the Contractor"

On denial of the allegations Inquiring Officer was appointed to enquire into the charges, who, after conclusion of the inquiry held the charges proved. Accordingly the Disciplinary Authority having considered the report of the Inquiring Officer and also the representation dated 26.3.1990 filed by the applicant, imposed the panalty of reduction of pay by three stages, viz., from the stage of Rs.3400/- to the stage of Rs.3125/- in the same time scale of pay of Rs.2000-3500/-, w.e.f. 01.02.1993 for a period of three years, with cumulative effect. The appeal filed by the applicant against the order of the Disciplinary Authority was rejected by the Appellate Authority vide order dated 14.3.1995 (Annexure-21). Aggrieved by this, the applicant has filed this Original Application, claiming the aforesaid reliefs.

3. Respondents have filed their counter and additional counter reply opposing the prayer of the applicant stating that the Inquiry Officer proceeded simultaneously, as advised by the Railway Board, both against the applicant



as well as one Muralidharan, P.W.I., utilising the same listed documents and witnesses. Ample opportunities were given to the applicant to place his defence before the Inquiring Officer. Inspite of order dated 7.8.1989, regretting postponement of the final hearing, the applicant did not attend the inquiry and as the inquiry was to be conducted concurrently on the allegations against the applicant and one Mr. Muralidharan and as the officers were already present to conduct the inquiry, there was no option but to conduct the enquiry ex parte on 16th and 17th August, 1989, by following the due procedures of law. After conclusion of the inquiry, a copy of the inquiry report was sent to the applicant, asking him to make representation, if any, in response to which the applicant submitted representation on 26th March, 1990. After taking into consideration the inquiring report and the representation of the applicant, the Disciplinary Authority imposed punishment on the applicant as aforesaid. In this view of the matter, Respondents have prayed for dismissal of the Original Application as it does not merit consideration.

3. Heard the learned counsel of both sides at length and perused the relevant materials placed on record.
4. During the course of argument, the learned counsel for the applicant submitted that there were only two charges framed against the applicant, whereas the Disciplinary Authority has taken into account the three charges, while passing the order of punishment; and on this ground alone, as submitted by him, the order of punishment should be quashed and the matter should be remitted back to the

M

Disciplinary Authority for reconsideration. The learned counsel for the applicant further submitted that all the documents relied upon by him were supplied by the Disciplinary Authority not before the appointment of the Inquiry Officer. It is the case of the applicant, as submitted by the learned counsel that he was not supplied all the relied upon documents by the respondents. It was submitted by the learned counsel that the request for postponement of the inquiry made by the applicant having been rejected on 7.8.1989, the Inquiry Officer proceeded to conduct the inquiry *ex parte*. On the other hand, the learned counsel for the respondents submitted that all the relied upon documents were supplied to the applicant and those of the documents which were not possible to be supplied (booklet) were kept open for the applicant and his defence counsel for perusal of the same. The learned counsel submitted that the respondents, while conducting the inquiry, have adhered to due procedure of law and/or guidelines issued by the Department, from time to time and in no way principles of natural justice have been violated. He further submitted that the Disciplinary Authority, while passing the impugned penalty order has taken into consideration only the two charges framed against the applicant and the third charge mentioned in the penalty order is a typographical mistake.

4. We have given our anxious consideration to the arguments advanced at the Bar. In a matter of disciplinary proceedings the scope of interference by the Tribunal is very limited and the Court/Tribunal can arise to the

occasion only where principles of natural justice are violated and/or the findings are based on no evidence.

So far as non-supply of documents relied upon by the respondents, as alleged by the applicant is concerned, the applicant has not made any averment as to how he was prejudiced by non supply of those documents. Applicant has not filed any rejoinder too refuting the stand taken by the respondents that ample opportunities were given to him to defend his case and that the principles of natural justice were observed meticulously; and/or there has been findings based on evidence. On the other hand, we are convinced that despite reasonable opportunity having been given to the applicant, he did not cooperate with the inquiry and in the circumstances, the Inquiry Officer had no other alternative but to conduct the inquiry ex-parte, by following the due procedure of law. We also do not come across any legal infirmity in the matter of holding inquiry.

It is the settled legal position that the Court/Tribunal cannot reappreciate the evidence nor can it enter into the quantum of punishment, unless it shocks the conscience of the Court/Tribunal. In the instant case, the charge levelled against the applicant is very grave as it relates to loss of public property and we, therefore, do not consider the penalty imposed upon the applicant as disproportionate.

5. In view of foregoing discussions, we are of the considered view that the applicant has not been able to make a case for any of the reliefs prayed for in this O.A., which being devoid of merit is dismissed. No costs.

Conorajit Chauhan
(M.R.MOHANTY)
MEMBER (JUDICIAL)

B.K.Sahoo//

M.P.Singh
(M.P.SINGH)
MEMBER (ADMINISTRATIVE)