

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 472/1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G. S. Maingi, Administrative Member

AJIT KUMAR GHOSH

VS.

UNION OF INDIA & ORS

For the applicant : Mr. Samir Ghosh, counsel

For the respondents : Mr. P. Chatterjee, counsel

Heard on : 31.3.2000

Order on : 31.3.2000

O R D E R

H. Purkayastha, J.M.

In this application, the applicant, Ajit Kumar Ghosh has challenged the validity of the memo of chargesheet dated 11.10.93 issued to him by the Assistant Electrical Engineer/Adra, ~~copy of~~ the enquiry report dated 13.5.1995, ~~the order of~~ punishment dated 29.8.1995 and the appellate order dated 5.1.1996 on the ground that the entire findings made against him by the enquiry officer as well as by the Disciplinary Authority are based on no evidence.

2. Respondents filed written reply denying the ~~allegations~~ made by the applicant in this O.A. It is stated by the respondents that enquiry has been conducted in accordance with the rules and from the evidence adduced by the department, enquiry officer came to a finding that the applicant acted in a manner which amounts to misconduct. However, lenient view was taken by the respondents at the time of passing order of punishment against the applicant and other persons with whom quarrel took place.

3. Ld. counsel Mr. S. Ghosh appearing on behalf of the applicant, submits that there is no evidence on record to show that the applicant was found guilty on the basis of the allegations brought against him and the enquiry officer has not come to the conclusion that the charges levelled against the applicant are proved. Thereby, the order of punishment issued by the disciplinary authority on the basis of the enquiry report is liable to be quashed. Mr. Ghosh has drawn our attention to the order of the appellate authority and submits that the order of the appellate authority is not sustainable in view of the findings made therein.

4. Mr. P. Chatterjee appearing on behalf of the respondents submits that the applicant was given reasonable opportunity to defend his case and no irregularity has been committed by the enquiring authority, disciplinary authority ~~or~~ the appellate authority during the departmental proceeding against the applicant. He further submits that from the evidence in record it is clear that the applicant acted in a manner which amounts to misconduct and unbecoming of a railway servant.

5. We have considered the submissions made by the ld. counsel for both sides and have perused the records. On a perusal of the order of punishment, we find that the disciplinary authority took lenient view on the basis of the allegations brought against the applicant. The enquiry officer examined the witnesses and came to a finding that :-

"From the circumstantial evidences it is found that both Sri A.K. Ghosh, SBA Gr.I and Sri S.N. Banerjee, CWM, Gr.III has made gross mistake by quarreling and fighting with each other in sub-station No.6 under EF(N)/ABRA(Government Premises) which tantamounts to a serious misconduct and breach of discipline and both are equally responsible."

On a careful consideration of the aforesaid circumstances, it cannot be said that the ~~allegations~~ ^{facts} have been proved.

~~against the applicant.~~ We are of the view that the Tribunal is not a ^{Court of Appeal} ~~competent court~~ to appreciate the evidences in

record and come to different findings after appreciating those evidences in record. It is found that the disciplinary authority took very lenient view in respect of imposition of punishment on the basis of the charges brought against the applicant and Mr. Chatterjee, old counsel for the respondents also informed that both the persons who were involved in the incident were punished by the department. Considering all these facts we are not inclined to interfere in this case. Accordingly, the application is dismissed.

6. No order is passed as to costs.

Chh. S. D.
3(3.2001
MEMBER(A)

31/3/2001
MEMBER(J)