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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.... Date of Order: 12/02/1997...

Original Application No.106 of 1995

....
FORAM: HON'BLE MR.S.C.VAISH, MEMBER(A)
HON'BLE MR.A.K.MISRA, MEMBER(J)

....
Nanag Ram Meena s/o Shri Heera Lal Meena, Resident
of Railway Quarter No.A-46, Near Railway Hospital,
Hanumangarh Junction.

presently working as C.T.I.-in-Charge, Northern
Railway Station, Hanumangarh Junction(Rajasthan).

....Applicant

By Advocate: Sh.S.K.Malik

Versus

1. Union of India, through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Chief Commercial Manager, Northern Railway,
Baroda House, New Delhi.
3. The Additional Divisional Railway Manager
Northern Railway, Bikaner Division,
Bikaner(Rajasthan).
4. The Senior Divisional Commercial Superintendent/
Manager, Northern Railway, Bikaner Division,
Bikaner(Rajasthan).

....Respondents

By Advocate: Sh.S.S.Vyas

ORDER

(Delivered by Hon'ble Mr.A.K.Misra, JM)

The applicant has moved this O.A. under
Section 19 of the Administrative Tribunals Act,
1985, with a prayer that the impugned order
dated 5.10.1993(Annexure A-1), passed by the
Disciplinary Authority and the order dated
29.9.1994(Annexure A-2), passed by the Appellate

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Authority, be quashed and set aside and the respondents be directed to release all the increments which were withheld, alongwith all the consequential benefits.

2. A notice of D.A. was given to the respondents who have filed their reply in which it has been mentioned that the applicant is not entitled to any relief as the charges against him were well proved. The application deserves to be dismissed.

3. The applicant has preferred not to file any rejoinder to the reply.

4. We have heard the learned counsel for the parties and have gone through the records and also the original record relating to inquiry produced by the learned counsel for respondents.

5. The learned counsel for the applicant has argued that this is a case of no evidence, therefore the order imposing penalty is per se wrong. It has also been argued by the learned counsel that the appellate order is also bad in as much as it has been passed by the same authority which has passed the disciplinary order. He has further argued that there has been no proper appreciation of evidence either by the disciplinary authority or by the appellate authority. Had the evidence been properly scrutinised and appreciated, the result of the inquiry would have been otherwise. Continuing the arguments, he has further argued that the delinquent has been examined by the Inquiry Officer without his consent and that too in the shape of cross-examination. For all these reasons, the inquiry deserves to be quashed. He has cited the following rulings in support of his contention:-

- i) AIR 1964 SC Page 364
Union of India vs. H.C. Goel

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ii) II 1990 ATKT Page 502
Mukesh Kumar vs. Union of India & others

iii) 1994(1) ATJ Page 582
Ramash Chandra vs. Union of India & Ors.

iv) 1996(1) ATJ Page 391
Vijay Kumar vs. Union of India & others


6. Answering the arguments advanced by the learned counsel for the applicant, the learned counsel for the respondents has argued that the applicant has not even produced the orders which he wants to be quashed by this Tribunal. Therefore, the Application deserves to be dismissed. He further argued that re-appreciation of evidence cannot be undertaken by the Tribunal. It has not been shown as to what patent illegality has been committed by the Inquiry Officer which has caused prejudice to the delinquent. In the departmental enquiry, the matter is decided by preponderance of evidence and strict proof of guilt as is expected in criminal case, is not required. Therefore, the order passed by the Disciplinary Authority deserves to be maintained as such. He has cited the following rulings in support of his contention:-

i) 1995(3) ATC Page 415
P.N.Pillai vs. Union of India and others.

ii) AIR 1995 SC 561
Government of Tamil Nadu & Ors. vs.
A.Rajapandian

iii) 1994(27) ATC Page 149
State Bank of India and others vs.
Samarendra Kishore Endow & Ors.

7. We have considered the rival arguments and gone through the record.



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8. Before discussing the arguments advanced by the learned advocates for the parties, it would be better to see whether the conclusion of Disciplinary Authority is based on some legal evidence or not. The charge against the delinquent reads as follows:-

"Shri Nanag Ram Meena while functioning as HTC Sadulpur and Chief Inspector Ticket, Hanumangarh during the year 1982-83 committed serious misconduct in as much as that he in league with some officials of DRN Office, New Delhi, processed the applications of some candidates for appointment as Shunting Porters in the category of Class-IV on the basis of forged letters of Members of Parliament and after obtaining some consideration from the candidates.



By his above acts Shri Nanag Ram Meena, failed to maintain absolute integrity and acted in a manner unbecoming of a Railway Servant thereby contravened Rule 3(1)(i)&(iii) of the Railway Services Conduct Rules, 1966. "

From the charge, it appears that the departmental nominee was required to prove the following points:-

- i) That in the year 1982-83 in league with some officials, the delinquent had processed the applications of some candidates.
- ii) That the delinquent in order to secure appointment had forged the letters of Members of Parliament; and
- iii) That the delinquent had obtained some monetary consideration from the candidates in order to secure appointments for them.

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9. We have gone through the evidence led by the department. It has not been shown and stated as to with whom the delinquent was in league. There is no evidence to show that he was in league with such-and-such persons and with the help of such persons, he got applications of various candidates processed. In the charge, it has been mentioned that applications of 43 candidates were got processed for appointment but such applications or names of such applicants have not been brought on record nor appointment of all such candidates was got proved. There is no legal evidence in respect of Point No.(i) of the charge.

10. The departmental nominee has not named the Members of Parliament whose letters were alleged to have been forged by the delinquent. No such letters have been brought on record, neither specific evidence in respect of forgery of such letters has been led by the department. In our opinion, forging of letters of various M.ps. has not been proved by the department. Thus, there is no legal evidence in support of Point No.(ii) of the charge.

11. It is also alleged that applicant had obtained monetary consideration from some candidates but neither the names of such candidates have been brought on record nor anyone of them has come forward to support the charge in respect of demand and acceptance of monetary consideration by the delinquent. Thus, there is also no evidence in support of point No.(iii) of the charge.



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12. In our opinion, this is a case of no evidence against the delinquent. The findings of the Disciplinary Authority is not based on legal evidence, rather the conclusion arrived at by the Inquiry Officer is in fact based on conjectures and surmises. The Disciplinary Authority has opined that the delinquent might have forged the letters and he might have accepted the monetary consideration but in our opinion such conjectures have no place in such matters. Suspicion, however strong, shall not be substituted for proof. The above conclusion is supported by the text of the penalty order(Annexure A-1) reproduced in part below:-



*The involvement of the CO in this racket is proved to the extent that he filed in some portions of the application on behalf of the candidate and in some cases might have even forged his signatures. It is also possible that he might have brought the forged letters purported to have been written by the MPs. But the above has not been established fully for lack of evidence. As stated earlier, there is no doubt that there was an organised racket for recruiting certain ST candidates on these applications in preference to the others who were waiting for their turn(as maintained in the priority register). The role of CO is, however, limited to the extent that he had filed in the application on behalf of the candidate and might have even signed on their behalf, which has been proved by the EO.;

13. There should have been specific evidence in support to the charge and specific finding against the delinquent in respect of having

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forged the letters of M.ps. and having accepted the monetary consideration from specific condidates, which is missing in the instant case. Thus, in our view, the conclusions arrived at by the Inquiry Officer and the Departmental authorities, cannot be legally sustained as it is a case of no evidence. The same deserve to be quashed. Rulings cited by the respondents are not applicable in the instant case because of difference of facts and circumstance

14. The Original Application deserves to be accepted.

15. Consequently, in the light of what has been stated above, the Original Application is accepted and the orders of the Disciplinary Authority dated 5.10.1993(Annexure A-1) and Appellate Authority dated 29.9.1994(Annexure A-2), are hereby quashed and respondents are directed to release the withheld increments in respect of the applicant and to take follow-up action in respect of fixation of pay and payment of arrears to the applicant within four months.

16. Parties are left to bear their own costs.



(Signature)
(A.K.MISTRA)
MEMBER(J)

(Signature)
(S.C.VAISH)
MEMBER(A)

Dated: February 12, 1997

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