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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

O.A.No.1/96

Date of Order:06.11.1996

Mal Chand

... Applicant.

VERSUS

Union of India & Ors.

... Respondents.

O.A.No.6/96

Ram Bhushan

... Applicant.

VERSUS

Union of India & ors.

Respondents.

Present :

Mr. N.K. Khandelwal, Counsel for the Applicants.

None for the Respondents.

CORAM :

HON'BLE MR. S.C. VAISH, ADMINISTRATIVE MEMBER

HON'BLE MR. A.K. MISRA, JUDICIAL MEMBER.

O R D E R :

(Per Hon'ble Mr.S.C.Vaish)

The two applications, O.A.No.1/96 - Mal Chand vs. Union of India & Ors. and O.A.No.6/96 - Ram Bhushan vs. Union of India & Ors. rest on the same facts and points of law and can conveniently be dealt with in one judgment.

2. This case was called for for the second time at 3.00p.m. today and Shri N.K.Khandelwal was present for the applicants. None was present for the respondents. Under Rule 16 of the Central Administrative Tribunal (Procedure) Rules, 1987, we proceeded to hear the counsel for the applicants, examine the record and decided the case as under :-

3. The brief facts of the case are that applicant Mal Chand is a passenger driver and applicant Ram Bhushan is a train driver with the respondent-Railways and posted at Loco Shed, Merta Road. The allegation against them is that on Republic Day function on 26th January, 1995 at Flag hoisting ceremony

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6-11-96.

at Loco Shed, Merta Road they raised slogans. This behaviour of the applicants compelled the respondents to take action and a punishment of withholding one pass for one year was imposed upon them.

4. Shri N.K. Khandelwal, the learned counsel for the applicant urged that no inquiry was held into the matter. However, for imposition of minor punishment under Rule 11 of the Railway Servants (Discipline & Appeal) Rules, 1968, an inquiry is not mandatory and under clause (b) of sub-rule 1, it may be held in a case in which the disciplinary authority is of the opinion that such an inquiry is necessary. The second point taken by the learned counsel is that it is a case of no evidence. He urged that a chargesheet dated 3.2.95 (A/1) served upon him and the allegations were annexed to the chargesheet. The allegations are reproduced below :-

"आरोपों का विवरण :-

दिनांक २६-१-९५ को लोको शैड मेडता रोड में करीबन ८/- बजे ध्वजारोहण के समय सवारी चालक श्री माल चन्द (२५२६) कुछ स्टाफ को लेकर आये और ध्वजारोहण समारोह में लोको फोरमेन के समक्ष मुरदाबाद के नामे लगाने लगे। परिणामस्वरूप गणतन्त्र दिवस समारोह में व्यवधान हुआ और अनुशासन व्यवस्था पर प्रतिकूल प्रभाव पड़ा।

इस प्रकार उपरोक्त मामले में श्री माल चन्द राष्ट्र विरोधी कार्य करने एवं अनुशासन व्यवस्था भंग करने के उत्तरदायी हैं। इन्होंने रेल सेवा आचरण १९६६ के पेरा ३.१, (1), (II) व (III) का गंभीर उल्लंघन किया है।

ह. /- व. म. या. अभि. (श.)
उ. रे. जोधपुर"

5. However, the learned counsel for the applicant urged that the chargesheet has no enclosure to show on what basis or on what evidence the disciplinary authority had framed the chargesheet. We have perused the reply of the respondents and their reply to the rejoinder. We cannot find therein that any inquiry was conducted ^{or} _{the} basis of evidence was communicated to the applicants with the chargesheet. However, ^{an} _{the} scrutiny of the reply of the respondents and their reply to the rejoinder show that the respondent-Railways relied upon a letter of the Foreman of the Loco Shed, Merta Road, that such an incident happened and six persons were involved in it and only two of the six are before us. Also that similar punishment was imposed on all the six of them.

6. As we have discussed above, it was not mandatory upon the Railways to hold an inquiry before ^{the} imposition of minor punishment. But it was necessary for them to communicate ^{to} the applicants, the basis or evidence on which this chargesheet was based. Moreso, in this case, the respondents ^{had} decided not to hold an inquiry into the matter. The proceedings, as they were carried out,

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6-11-96.

did not give an opportunity to the present applicants to rebut the allegations contained in the chargesheet as the basis of the allegations was not communicated nor an inquiry was held. In these circumstances, we are of the view that the present case is a case of no evidence.

7. In view of the above discussion, the impugned chargesheet (Annexure A/1 dated 3.2.95), the punishment order (Annex.A/3 dtd:13.7.95) and the Appellate Order (Annex.A/5 dtd:19.9.95) are quashed. However, the respondents are at liberty to proceed afresh in the matter, if they so desire, according to the prescribed Rules and Procedure. A copy of this judgment be kept on both the files.

No order as to costs.

 
(A.K.MISRA)

Judl. Member

 6-11-96.

(S.C.VAISH)

Administrative Member.

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