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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 21.01.2002

O.A. No. 137/99

Aditya Prasad Pandey son of Shri Brij Bhushan Pandey aged about 45 years, Dy. Chief Controller, Grade Rs. 2000-3200/Rs.6500-10500 Control Office, Divisional Office, Northern Railway, Bikaner, resident of Quarter No. 261-B, New Railway Colony, Lalgarh, Bikaner.

... Applicant.

versus



1. Union of India through the General Manager, Northern Railway, H.Q. Office, Baroda House, New Delhi.
2. The Chief Operating Manager, Northern Railway, H.Q. Office, Baroda House, New Delhi.
3. The Additional Divisional Railway Manager, Northern Railway, Bikaner Division, Bikaner.
4. The Senior Divisional Operating Manager, Northern Railway, Bikaner Division, Bikaner.

... Respondents.

Mr. Y.K. Sharma, Counsel for the applicant.

Mr. Manoj Bhandari, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice O.P. Garg, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

:O R D E R:

(Per Hon'ble Mr. Justice O.P. Garg)

While the applicant was working as Dy. CHC/BKN in the shift of 18.00 hours to 2.00 hours on 22.08.95, he is alleged to have committed the following acts of negligence:-

"(1) Train No. 3484 Ganga Jamuna Express of 21.08.95 Ex Buw was cancelled due to unfortunate accident at Firozabad. A detailed message was received by Shri A.P. Pandey himself from E.O/Hqrs. But no information was given to BNW station by him. As a result, travelling passengers suffered a lot of inconvenience at Bikaner.

(2) Three important messages were received in 18/ to 2/ hrs. shift. One from CHC/HMH 2nd from E.O/Hqrs NDBH and 3rd from SS/BNW. These messages were regarding important changes in movement of coaches and their maintenance. Dy. CHC/Punc neither informed any concerned official nor took any action on it."

Since the applicant failed to maintain devotion to duty and violated Rule No. 3(ii) of Railway Service Conduct Rules, 1966, he was proceeded against departmentally for a minor punishment by invoking the provisions of Railway Servants (Discipline & Appeal) Rules, 1968. Ultimately, the applicant was found to be careless and irresponsible worker. Since he did not show any sign of improvement in his working or behaviour inspite of continuous counselling, his pay was ordered to be reduced to a lower stage in the same time scale for the period of three years without cumulative effect and without adversely affecting his pension. The order of minor punishment dated 27.09.95 passed by the disciplinary authority is Annexure A/1 to the application. The applicant preferred a departmental appeal taking the various grounds to assail the order of punishment. The appellate authority passed the following order issued on 03.01.97, a copy of which is Annexure A/2.

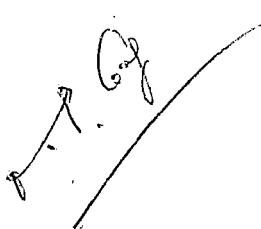
" I find that in the case under consideration, the punishment is harsh compared with the gravity of the offence. Punishment is accordingly reduced from reduction to lower stage in the time scale for one year instead of three years."

2. Dissatisfied with the order passed by the appellate authority, the applicant preferred a revision petition which too has been rejected by the authority concerned, i.e., the Chief

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of authorities of the Apex Court that the Tribunals cannot sit as a Court of appeal over the decision based on the findings of the competent authority in disciplinary proceedings. The celebrated case on the point is B.C. Chaturvedi vs. Union of India and Others, (1995) 6 SCC 749, preceded by the earlier decisions in the case of State of T.N. vs. T.V. Venugopalan, (1994) 6 SCC 302, Union of India vs. Upendra Singh, (1994) 3 SCC 357 and Government of T.N. vs. A. Rajapandian, (1995) 1 SCC 216. In a subsequent decision in the case of State of T.N. and Another vs. S. Subramaniam, (1996) 7 SCC 509, it was observed that it is settled law that the Tribunal has only power of judicial review of the administrative action of the appellant on complaints relating to service conditions of employees. It is the exclusive domain of the disciplinary authority to consider the evidence on record and to record findings whether the charge has been proved or not. It is equally settled law that technical rules of evidence have no application to the disciplinary proceedings and the authority is to consider the material on record. In judicial review, it is settled law that the Court or the Tribunal has no power to trench on the jurisdiction to appreciate the evidence and to arrive at its own conclusion. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It is meant to ensure that the delinquent receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the view of the Court or the Tribunal. When the conclusion reached by the authority is based on evidence, the Tribunal is devoid of power to reappreciate the evidence and come to its own conclusion on the proof of the charge. The only consideration the Court/Tribunal has in its judicial review is whether the conclusion is based on evidence on record and supports the finding or whether the conclusion is based on no evidence.

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Operating Manager, Northern Railway, New Delhi, by order dated 20.04.98 (Annexure A/3). It is in these circumstances, that the applicant has come forward before this Tribunal under Section 19 of the Administrative Tribunals Act, 1985. He has challenged the order of punishment on variety of grounds. The contesting respondents have supported the order of punishment taking the stand that the due procedure prescribed for inflicting the minor punishment has been adopted and that this Tribunal would not substitute its own finding on questions of fact in preference to the finding of guilt arrived at by the departmental authorities.

3. Heard Shri Y.K. Sharma, learned counsel for the applicant and Shri Manoj Bhandari, learned counsel appearing on behalf of the respondents at considerable length.



4. The applicant being a Railway employee is governed by the Railway Servants (Discipline & Appeal) Rules, 1968 in the matter of disciplinary action. Rule 6 in Part III of the said Rules defines major penalty. "Reduction to a lower stage in the time scale of pay for a period not exceeding three years, without cumulative effect and not adversely affecting his pension" is one of the minor penalties. The procedure for imposing minor penalties is prescribed in Rule 11 of the said Rules. Shri Y.K. Sharma, learned counsel for the applicant could not point out any procedural irregularity in the imposition of the minor punishment for the established delinquency of the applicant. According to him, the order of punishment, however, stands vitiated on account of the fact that the documents which the applicant demanded from the disciplinary authority, which were the basis for inflicting the penalty, were not supplied to him with the result the applicant was seriously prejudiced in his defence. Shri Sharma further pointed out that the appellate

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authority had passed a cryptic and non-speaking order without going into the elaborate grounds taken by the applicant in his appeal and since the appeal has not been effectively decided, the order of the appellate authority cannot be sustained. Shri Manoj Bhandari repelled these submissions. He pointed out that the orders/messages, copies of which the applicant demanded were in fact, addressed to the applicant himself and, therefore, there was no occasion to supply their copies. Shri Manoj Bhandari further pointed out that there is no rule which provides for supply of the documents in case of charge-sheet issued for minor penalty. According to him, the representation made by the applicant was duly considered by the disciplinary authority and thereafter, the impugned order of punishment dated 27.09.95 (Annexure A/1) was passed. The applicant had also used highly objectionable language and had expressed his pre-conceived notions against disciplinary authority. Shri Manoj Bhandari further pointed out that the appellate authority had passed the order after taking into consideration the facts and circumstances of the case and has reduced the minor punishment to reduction to a lower stage in the time scale for one year instead of three years in view of his conclusion that the punishment awarded by the disciplinary authority was not commensurate to the gravity of the charge.

5. We have given thoughtful consideration to the matter in the light of the respective submissions of the learned counsel for the parties and the material available on record. At the outset, it may be mentioned that it is well settled proposition of law that the Court, or for that matter, this Tribunal, has no power to interfere with the findings of the disciplinary authority/appellate authority by reappreciating the evidence. The law on the point has been authoritatively settled by string

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6. In yet another decision in the case of Commissioner and Secretary to the Government and Others vs. C. Shamugam, (1998) 2 SCC 394, the previous authorities on the point have been considered and consistent view has been taken that this Tribunal cannot sit as a Court of appeal over the decision based on the findings of the enquiring authority in disciplinary proceedings. The observations made in the earlier decision, i.e., State of Haryana vs. Rattan Singh, (1977) 2 SCC 491, were approved. Besides the above decision, there is a plethora of decisions of the Apex Court as well as various High Courts on the point. It is not necessary to recount them as it would unnecessarily burden this judgement. The fact remains that the law on the point is well embedded. This Tribunal cannot find fault with the orders passed by the disciplinary authority or of the appellate authority by reappreciating the evidence and sifting the facts. In the instant case, the order of minor punishment passed by the disciplinary authority rests on proper ground. The order of punishment inflicted upon the applicant is also quite reasonable, moderate and justified.

7. Now we come to the point whether the order passed by the appellate authority suffers from any infirmity or is laconic in any manner. It is true that in his appeal the applicant has taken various grounds to challenge the order of punishment. But the appellate authority has not specifically dealt with each one of the points raised by the applicant. There is no law which requires the appellate authority to deal with every point raised by the employee who has been punished by the disciplinary authority. It is, however, necessary that the appellate authority should apply its mind to consider the case and then come to a proper conclusion. The appellate authority has not

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expected to write a lengthy order like a judgement of the Court. If the order passed by the appellate authority indicates application of mind, it would withstand the test of scrutiny. It is of no consequence whether the order is small or long. A reading of the order passed by the appellate authority, which has been quoted in para 1 above, indicates that due consideration to the appeal of the applicant was given. The appellate authority found the punishment awarded to the applicant as harsh and consequently reduced the same. This fact itself indicates the application of mind by the appellate authority. The learned counsel for the applicant, therefore, is not justified in finding fault with the order of the appellate authority. The revisional authority has also affirmed the order of the appellate authority.

8. In the light of the above facts, we find that the imposition of minor penalty on the applicant passed by the disciplinary authority and has modified by the appellate authority and has affirmed by the revisional order, does not call for any interference by this Tribunal. The O.A., therefore, turns out to be devoid of any merit and substance. It is accordingly dismissed without any order as to costs.

gopal singh
(GOPAL SINGH)
Adm. Member

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(JUSTICE O.P. GARG)
Vice Chairman

cvr.

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Part II and III destroyed
in my presence on 21.6.07
under the supervision of
Section Officer || as per
order dated 14/5/07

Section Officer (Record)