

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 28/93

Monday, this the 17th day of January, 1994

SHRI N. DHARMADAN, MEMBER (J)
SHRI S.KASIPANDIAN, MEMBER(A)

S. Ramu,
Electrical Fitter/Train Lighting/HS-I,
Southern Railway, Trivandrum. .. Applicant

BY Advocate Shri P.K.Madhusoodhanan.

V/s

V/s

1. The Assistant Electrical Engineer,
SR, Trivandrum.
2. The Sr. Divnl. Elect. Engineer,
SR, Trivandrum.
3. The Divnl. Personnel Officer,
SR, Trivandrum.
4. Union of India, rep. by
Secretary, Min. of Railway,
Rail Bhavan, New Delhi. .. Respondents

By Advocate Smt. Preethy for
Advocate Smt. Sumathi Dandapani.

ORDER

N. DHARMADAN

Applicant is challenging Annexure-A3 by which a minor penalty of withholding one increment without cumulative effect has been imposed on the applicant.

2. According to the applicant, while he was working as Electrical Fitter/Train Lighting Highly Skilled-I at Trivandrum, a charge memo, Annexure-A1 dated 11.2.92 was issued to him with the statement of imputation. The charges read as follows:-

"While you were nominated to maintain and despatch the rakes of train No.6030/6029 on 11.1.92, you have failed to do the proper maintenance resulting the train No.6029 had a detention of 50' at Trivandrum for want of light in coach No.SLR 7723. This attribute to violation of Rule No.3(1)(ii) and 3(1)(iii) of D&A Rules 1968."

The applicant did not file any explanation despite a reminder having been issued to him. After a careful consideration of the nature of the charge, the gravity of the offence and the evidence, Annexure-A3 impugned order was passed on 28.4.93 by the disciplinary authority imposing a minor penalty of withholding one increment for one year without cumulative effect. The applicant filed Annexure-A4 appeal before the Appellate Authority on 26.5.92 against the penalty order which was disposed by the DPO, Trivandrum as per Annexure-A5 on 29.9.92 confirming the penalty. There was also an adverse entry in the ACR for the year based on the punishment. But when he filed appeal, the Divisional Railway Manager expunged the adverse entries having found that the performance of the applicant has improved very much.

3. According to the applicant, Annexures-A3 and A4 orders were passed without following the procedure under the Rules and they are to be quashed in the light of Annexure-A8 order of DRM.

4. It is admitted case that the applicant did not file any objection to the charge memo. The contention of the learned counsel for the applicant is that even if the delinquent has not filed any objection against the penalties, the disciplinary authority and the appellate authority are bound to follow the procedure under the rules. Since they have not followed the procedure, the orders are illegal and liable to be set aside.

5. Having heard the learned counsel on both sides, we are of the view that a minor penalty was imposed on the applicant on account of his own failure to object the charge. In fact he did not deny the charge and raise all his contentions now raised before us in this O.A. Since

there is default on the part of the applicant at the initial stage, he is estopped. He cannot be allowed now to raise all the above technical contentions. In a disciplinary case in which the delinquent keeps quite without raising any objection against the charge, either on receipt of the charge or at any time before the punishment, the disciplinary authority can proceed with the case, as if he has admitted the guilt. In the instant case we have carefully gone through the appeal memo, Annexure-A4. In that also the applicant did not raise any serious objection against the charge except stating that the shunting staff detached the coaches without his knowledge and thereby the feeding wire shorted and that the applicant had maintained the rake and spare coaches with one staff. Since the applicant did not object to the charge by raising the contentions raised in this O.A., we are not inclined to consider the contentions.

5. Having regard to the facts and circumstances of this case, we are of the view that there is no merit in the original application. It is only to be dismissed. Accordingly, we dismiss the O.A. as devoid of any substances. There will be no order as to costs.



(S.KASIPANDIAN)
MEMBER (A)


17.1.94.

(N.DHARMADAN)
MEMBER (J)

v/-