

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 341 of 2007

Reserved on 7.4.2015

Pronounced on 9/4/15

Hon'ble Ms. Jasmine Ahmed, Member-J

Hon'ble Mr. U.K. Bansal, Member-A

Syed Munir Alam, aged about 46 years, S/o late Sri S.S. Alam, R/o C-57/4 RDSO, Manak Nagar, Lucknow.

.....Applicant

By Advocate : Sri A. Moin

Versus.

1. General Manager, Northern Railway, Baroda House, New Delhi.
2. Dy. Chief Material Manager, Northern Railway, Lucknow.
3. Sr. Material Manager (DEPOT), AMV/LKO Northern Railway, Lucknow.

.....Respondents.

By Advocate: Sri Rajendra Singh for Sri B.B. Tripathi

ORDER

By U.K. Bansal, Member-A

The applicant, in this O.A., while serving in the department of respondents as Senior Clerk, was given a charge-sheet dated 11.8.2001 and was punished by an order dated 3.11.2004 removing him from service. The aggrieved applicant filed an appeal before the respondent no.2, which was decided by reducing the punishment and reverting him from the post of Senior Clerk to the post of Clerk by an order dated 9.1.2006. The initial order of removal from service dated 3.11.2004 and appellate order dated 9.1.2006 have been annexed at Annexure A-1 and A-2 of the O.A.

2. The applicant, herein, is seeking the relief of quashing of both above mentioned punishment and appellate orders with all consequential benefits. He is further seeking quashing of the order dated 11.8.2006 by which the respondents had disallowed the revision appeal of the applicant. The applicant is further seeking suspension of recovery from the pay, as directed in the impugned appellate order.

3. It is the contention of the learned counsel for the applicant that the initial order of removal from service is accompanied by an order of recovery of Rs. 2,40,060/- on account of loss caused to



the railways due to negligence of the applicant. The appellate order, while reducing the punishment of removal from service to reduction in rank and pay etc., also retains the punishment of recovery of the said loss from the salary of the applicant.

4. The learned counsel for the applicant pointed out, while discussing the veracity and correctness of the departmental inquiry leading to 'aforementioned punishments, that the respondents have inflicted the major penalty of removal/reduction in rank and pay by the impugned orders respectively and have also included the minor penalty of recovery of an amount from the salary of the applicant. It has been argued that the Hon'ble Supreme Court, while dealing with service law and imposition of penalty/punishment has clearly held, in **Union of India & Another Vs. S.C. Parashar (reported in (2006) 3 SCC 167)**, while deciding the civil appeal no. 1267 of 2006, that amalgam action of minor and major penalties imposed by the same order is illegal.

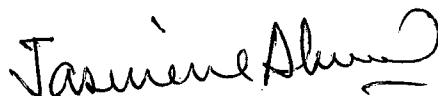
5. The Counter Reply submitted by the respondents has addressed the points raised in the O.A. justifying the departmental inquiry and the allegations thereof. It has been submitted that the inquiry was conducted strictly in accordance with rules and the impugned order of removal from service has been passed after due consideration of the applicant's reply against inquiry report. It has been stated in the pleadings that after issue of the punishment order whereby the applicant was taken back in service, he could not have availed of the opportunity to prefer a revision petition and it was, in these circumstances, that his revision petition was disallowed. During the course of hearing, learned counsel for the respondents could not offer any substantive argument in the context of law laid down by Hon'ble Supreme Court in the aforementioned case of Union of India Vs. S.C. Parashar (supra) regarding imposition of major penalty and minor penalty by the same order, which has been held illegal and which comprise the main defence argument of the applicant's counsel.

6. On an examination of the impugned orders, it is clear that the respondents have chosen to award the major penalty of removal and minor penalty of recovery from the applicant in the first instance vide their order dated 3.11.2004 and again while

issuing the appellate order dated 9.1.2006, the major penalty of reduction in rank and pay has been awarded, while sustaining the earlier order of recovery from the pay of the applicant. Rule 11 of CCS (CCA) Rules, 1965 specifies such recovery from pay as a minor penalty. The procedure for imposing minor penalties has been laid down in Rule 16 and this has not been followed in the instant case. Therefore, there is a clear amalgamation of major and minor penalties in this case and law laid down by Hon'ble Supreme Court is also clearly applicable. Hence, the impugned orders dated 3.11.2004 and 9.1.2006 are quashed on this very ground and hence the revision petition filed by the applicant loses all its relevance. The respondents are also directed not to implement the recovery from the pay of the applicant as directed in the impugned appellate order. The O.A. is accordingly allowed with no order as to costs.



(U.K. Bansal)
Member-A



(Ms. Jasmine Ahmed)
Member-J

Girish/-