

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW

Original Application No. 176 of 1991.

Munshi Lal Mehta

Applicant.

versus

Union of India & others

Respondents.

Shri G.R. Chhabra

Counsel for Applicant.

Shri Anil Srivastava

Counsel for Respondents.

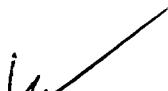
Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant has approached this Tribunal against the impugned order date 4.2.91 imposing penalty of fine under Rule 6(iii) on the applicant.

2. The applicant joined the Railway service in the year 1953 as a Clerk and was promoted from time to time and ultimately he was promoted as Sr. Depot Stores keeper and posted at Charbagh, Northern Railway, Lucknow. According to the applicant he was transferred from Alambagh to Charbagh by order dated 20.9.1989, prior to which he was posted at Alambagh Stores. Since 20.9.89 the petitioner/applicant was confined to bed and was admitted to Railway Indoor Hospital, Charbagh, Lucknow and he had given the charge of Alambagh Stores B Ward on 30.11.89 and had taken the charge of Charbagh Depot on 1.12.1989. At the time of ailment of the applicant



the stores of Alambagh was under the charge of Shri Tanveerul Islam, S.S.K. III, Alambagh, Stores, Ward E (14). The petitioner/applicant remained hospitalised during the period between 21.9.89 to 8.11.89. The keys of the entire stores were handed over by the petitioner to the Security Department through Sr. D.S.K. on 10.10.89. When the applicant, on 9.11.89, joined his usual duties, he was not allowed to join the same, and was asked to do his usual duties since it would take a lot of time on verification of the stock position etc., as the applicant operated the stores as usual as the DSK III intermittently absented and the applicant also cleared the pending work lying at the table which had accumulated. According to the applicant, on 30.11.89, he requested to the Dy. Controller of Stores, that till all the stock sheets and price list number is verified in presence of the petitioner and same be taken over by the DSK III. The request of the applicant was turned down and the applicant was forced to hand over the charge of the stores without its verification subject to its verification afterwards. Stores was never verified in his presence and the applicant was shifted to Stores Charbagh and took charge at Charbagh depot on 1.12.89 and transactions from 5.12.89 to 30.3.90 were made by other DSKs i.e. Shri Tanvirul Islam and Shri Rajendra Prasad.

3. On 22.10.90 the applicant was served with a charge Memo alleging that the shortage of material valuing Rs 2,29,934.00 was found at the time of verification of

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stock sheets during the period from 5.12.89 to 30.3.90.

According to the applicant Ward No. 15(F) was not under the control and supervision of the applicant since 1977 till his handing over the charge of Ward, and if anything was irregular found, then he was not liable for the same. Alongwith the charge sheet, the copies of Field book of stock verifier and stock verification sheets were not served. According to the applicant while verifying the store one verifier of Accounts Department and one ward keeper who must be holding the charge in the new Ward where material was shifted should be associated with the stock verification, but he was not associated with the stock verification when the material was shifted, while as per law the presence of the persons must be noted down while verifying the stock of godown. The charge sheet neither contains the names of persons in whose presence the store was verified nor statement of such persons recorded by competent authority and other material, evidence collected by the competent authority. The petitioner pleaded that he requested to search out and locate the material lying at the stores, which has not been taken on books during transfer of material from one ward to another ward. The petitioner was spared from Charbagh to verify the stock lying in the stores of Alampagh. The petitioner states that the stock sheet dated 6.3.90 was cleared on 22.6.90 which has not been mentioned in the chargesheet. In the month of July and August, 1990 the material mentioned

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in the stock sheets was not taken on books inspite of repeated requests and reminders made by the applicant.

4. On 22.10.90 the applicant was served with a Memo dated 6.10.90 to submit his reply within 10 days of its receipt. Applicant requested one month's time for the same and prayed for copies of registers and stock sheets and Field Book but no reply to the same was given. Vide letter dated 13.12.90 the applicant informed to Dy. Com that he has cleared the position of stock sheet dated 3.1.90, 9.1.90 and dated 10.1.90 tracing out the stock from the godown of Ward No. E 14, the details of which were given in note dated 13.12.90. He further requested that the material searched by the applicant be taken on books through final DVR or stock verification and he also requested on 3.1.91 that he is trying his best to clear the stock sheets alongwith the help of Sr. ISA / AMV and the stock verifier AMV but no assistance was made to him. On 14.1.91 he requested that he had traced the material for which the charge was levelled against him and as such the same be verified through stock verifier. The applicant submitted his reply through proper channel. On 30.1.91 when he had gone to collect his pay the applicant was served the order dated 4.2.91, which has been challenged on various grounds including on merits and on the ground that the order suffers from non application of mind and without opportunity of defending

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himself. The appeal filed by the applicant has also been dismissed, and mandatory provision was not followed.

5. The respondents have stated that the applicant has retired from service on 31.5.92 and during his service period he was awarded punishment several times and even just before his retirement the punishment order dated 4.2.91 has been passed which is under challenge. He was issued yet another charge sheet dated 20.5.91 which is ~~just~~ under process. It has been stated that everyday the procedure of stores department is that ~~being~~ the work keys of each and every ward and godown are handed over to the Railway Security Department and the same is again taken back from the Security Department by the Depot Stores keeper concerned to open the wards. After resuming duty the applicant was in ward E as he had not given charge of the aforesaid ward to Sri Panvirul Islam ~~UK~~ III. Shri Panvirul Islam had not taken even a single day leave during the period the applicant remained absent from duty and no request has been made by the applicant, nor it was turned down. According to the prevalent practice the employee has to execute the orders after handing over the charge of his post ~~so help~~ by him to his successor immediately, but, however, he will remain responsible for any difference in stock upto the period of six months from the date of handing over the charge. The applicant who was awarded punishment several times, was also prepared for shortage of 145-025 reams of card boards and excess 103-150 reams of card boards of different types. He handed over the charge

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subject to stock verification by accounts department. The stocks were verified in the presence of Tanvirul Islam, DSK III and Rajendra Prasad, DSK II and after receipt of stock sheets the same were handed over ^{by} the applicant. The applicant's reply was not found satisfactory, he was given yet another opportunity and case was fixed for re-verification on applicant's request. The orders for re-verification were issued to the Accounts department. The applicant was not interested to clear the stock sheets though all the documents were supplied to him within time. Not being satisfied with the reply, the competent authority ordered for fresh verification of said stocks and wards. After issue of the stock sheets during 5.12.89 and 30.3.90 the applicant did not care to clear the stock and took more than sufficient time despite sufficient opportunity and accordingly the charge sheet was given to him on 6.10.90 but even after issuance of the same he did not submit any satisfactory reply. It was taken a careless attitude of the applicant and the enquiry was conducted.

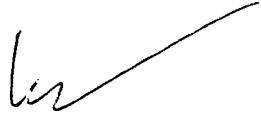
6. It was, thus, a case of minor penalty and the applicant has been asked to pay a particular amount. For minor penalty it was not obligatory on the part of the respondents to have fulfilled enquiry though it was done, ~~but~~ if the disciplinary authority did not consider it a fit case to hold enquiry. The applicant was, undoubtedly, a storekeeper and he can't escape his responsibility for stock verification. It may be that the stores was in the charge of his



successor and in the absence of any allegation against his successor even if subsequently he did find out something or what was ~~something~~ missing, it ^{was} / because of the act of careless attitude of the applicant and thus the minor penalty has been awarded.

7. According to us, no rule has been breached and the applicant has not been denied of any opportunity and as such we do not find any merit in this case and the application is accordingly dismissed. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel

Lucknow: Dated: 12th March 1993-