

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

O.A. No. 298 of 2006

Date of order : 11.10.2007

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Shri Amit Kushari, Member (A)

Chulhai S/o Rameshwar , Ex Key Man, Gang Beat No. 12 NB, under Section Engineer [P. way]/ Raghpur , resident of village & P.O. Sattar via Panchgachia, P.S. Bihra , Saharsa.

....Applicant

By Advocate : Shri R.K. Choubey

Vs.

1. The Union of India through the General Manager, E.C. Railway, Hajipur.
2. The Addl. Divisional Railway Manager, East Central Railway, Samastipur.
3. The Senior Divisional Personnel Officer, East Central Railway, Samastipur.
4. The Senior Divisional Engineer [Special], East Central Railway, Samastipur.
5. The Assistant Engineer East Central Railway, Saharsa.
6. The Section Engineer P. Way, East Central Railway, Raghpur.

....Respondents

2.

By Advocate : Shri Mukund Jee.

ORDER

S. Srivastava, M (J):-

The applicant has approached the Tribunal aggrieved with the imposition of punishment of removal from service.

2. The facts are that the applicant contracted second marriage during the life time of 1st wife without any information to the department and



thereby committed misconduct under Rule 21 of Railway Service [Conduct] Rules, 1966. The charge sheet dated 19.6.04 was served on him. The disciplinary authority vide order dated 29.6.2004 imposed the punishment of removal from service on the basis of admission of the delinquent employee as to his misconduct i.e bigamy. An appeal was also preferred which was also dismissed vide order dated 28.2.2006 [Annexure A/10] on the ground that the delinquent employee had admitted his misconduct, therefore, there was no ground to interfere with the punishment order.

3. The applicant has raised pleas about the hurried enquiry and early conclusion of disciplinary proceedings. We may at this stage refer to the law laid down by the Hon'ble Supreme Court about the procedure to be followed as and when there is admission of misconduct. In Firestone Tyre & Rubber Co. of India vs. Workmen , AIR 1968 SC 236, the Hon'ble Supreme Court has held that when the workman admits his charges , then ^{empty} the holding of an enquiry is an ~~empty~~ formality. In another decision in connection with an employee of Bank Employee, the Hon'ble Supreme Court has held that in a case of admission of guilt, the disciplinary authority can straight way impose the punishment without holding an enquiry- Central Bank of India vs. Karunamay , AIR 1968 SC 266. In the instant case the applicant clearly admitted his second marriage without any

reservation. He did not retract even at the stage of appeal. Therefore, we consider that the rules of procedure for holding an enquiry are of no significance.

4. Much emphasis has been laid on behalf of the applicant on quantum of punishment. There are a large number of cases dealing with the jurisdiction and power of the Tribunal on this point. It has been consistently laid down by Hon'ble Supreme Court that the power of the Tribunal to interfere with penalty or punishment is very limited and unless the punishment appears to be shockingly disproportionate, the court cannot interfere with the same.

5. In the case of Government of T.N. Vs. K.N. Rama murthy , 1997 SCC [L&S] 1749, it was held that the court can interfere only if inference of misconduct cannot be drawn from the charges and the supporting particulars or if the charges are contrary to law.

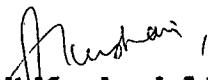
6. In Union of India & Another vs. G. Ganayuthan, 1997 SCC [L&S] 1806, the Hon'ble Supreme Court has summarized the law of proportionality in administrative law in India as follows:-

“ To judge the validity of an administrative order or statutory discretion, normally the Wednesbury test is to be applied to find out if the decision was illegal or suffered from procedural improprieties or was one which no sensible decision-maker could, on the material before him and within the framework of the law, have arrived at. The Court would consider whether relevant matters had not been taken into account or whether irrelevant matters had been taken into account or whether the



action was not bona fide. The Court would also consider whether the decision was absurd or perverse. The Court would not however, go into the correctness of the choice made by the administrator amongst the various alternatives open to him. Nor could the Court substitute its decision to that of the administrator. This is the Wednesbury test."

7. In the case of Om Kumar & Others vs. UOI , 2001 SCC [L&S] 1039, Wednesbury principle was again followed.
8. The settled law is that if misconduct is proved or admitted as in the instant case, the quantum of punishment determined by the disciplinary authority should not be interfered with in routine manner on the whims or fancy of the Court on humanitarian or sympathetical consideration only. The choice of the disciplinary authority in imposing the punishment with reference to the misconduct committed by the delinquent employee can be interfered with for cogent reasons and not otherwise. Judging the instant case in the background of law laid down by the Apex Court, we are of the considered opinion that no interference on quantum of punishment is called for.
9. Resultantly, OA is dismissed without any order as to the costs.


 [Amit Kushari] M [A]


 [Sadhna Srivastava] M [J]