

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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T.A. NO: 499/87

DATE OF DECISION 7.10.92

Shri Pandit Rajmal Johare Petitioner

Shri D.V.Gangal Advocate for the Petitioners

Versus

Union of India and 4 others Respondent

Shri V.G.Rege Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S.K. Dhaon, Vice Chairman

The Hon'ble Mr. M.Y.Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

ND

(S.K. DHAON)
VICE CHAIRMAN

mbm*

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Transfer Application No. 499/87

Shri Pandit Rajmal Johare

... Applicant.

V/s

The Union of India through
The Ministry of Railways,
Railway Board,
New Delhi.

The Union of India through
The General Manager,
Central Railway
Bombay V.T.

The Chief Traffic Safety Superintendent,
Central Railway
Bombay V.T.

Shri A.K. Shrivastava
The Principal
Zonal Training School,
Bhusawal.

Shri B.K. Deshmukh
Assistant Engineer(Instructor)
Zonal Training School,
Bhusawal.

... Respondents.

CORAM: Hon'ble Shri Justice S.K. Dhaon, Vice Chairman
Hon'ble Shri M.Y. Priolkar, Member (A)

Appearance:

Shri D.V. Gangal, counsel
for the applicant.

Shri V.G. Rege, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 7.10.92.

¶ Per Shri S.K. Dhaon, Vice Chairman ¶

This Writ Petition has been transferred to
this Tribunal by the High Court of Bombay.

The petitioner was employed as a
Superintendent of the Hostel maintained by the Zonal
Training School, Bhusawal. Upon a charge sheet given to him,
an order was passed on 6.5.85 by the Vice Principal
awarding a minor punishment to the petitioner. Vice
Principal withheld the increment of the petitioner due
on 1.1.86 for a period of 6 months. Feeling aggrieved
✓ petitioner went up ⁱⁿ for an appeal which was decided
on 24.7.85 by the Principal. The appellate authority

amended the order of punishing authority. It reduced the period of 6 months to 3 months, with the result that the increment of the petitioner was reduced from 1.1.86 to 31.3.86. This order of the Principal is being impugned in the present application.

On 29.7.85 one Shri B.K. Deshmukh, Assistant Engineer served upon the petitioner a charge sheet. The legality of this charge sheet is also being impugned in the present application.

Admittedly the Vice Principal was the authority competent to inflict a minor punishment upon the petitioner. His order says that, after considering the explanation offered by the petitioner, ^{he} considered ^{it} proper to withhold the increment for a period of 6 months. The appellate authority had maintained ^{it} the order, it was however modified by reducing the period. We find no apparent illegality in the order of the appellate authority so as to entitle us to interfere in proceedings under article ²²⁻⁶ ~~14 or 16~~ of the constitution. We have no jurisdiction to enter into the quantum of the punishment. It cannot be said that the punishment awarded to the petitioner was dis-proportionate to the guilt attributed to him, therefore, it cannot be said that the punishment imposed is arbitrary.


So far as the order of 29.7.85 is concerned, we are clearly of the opinion that the Assistant Engineer had no jurisdiction to issue a charge sheet to the petitioner. In the counter affidavit, the stand taken is, that the Assistant Engineer purported to act on behalf of Principal at the directions of the Vice Principal. It is implicit in this part of the reply that the power to issue a charge sheet really vests in the Principal. If that be so, the Vice Principal has no jurisdiction

to give a direction to the Assistant Engineer to act on behalf of the Principal. If at all, the Principal could give such a direction.

It is next contended that under relevant rules Assistant Engineer is empowered to issue a charge sheet. Reliance is placed upon schedule II to the Railway Servants (Discipline and Appeal) Rule 1968. The argument is that, according to the schedule, an Assistant Officer is empowered to take some disciplinary action. It is not the case of the respondents, in the counter affidavit filed, that the Assistant Engineer exercises the power of an Assistant Officer^{with} in the meaning of schedule II. Therefore it cannot be said that Assistant Engineer acted as an Assistant Officer. It follows that the charge sheet had been given by an officer who was not empowered to do so. Accordingly, it is not sustainable.

This application succeeds in part. The charge sheet given to the petitioner on 29.7.35 by the Assistant Engineer is quashed.

There shall be no order as to cost. However we make it clear that it ^{will be} is open to the authority concerned to pass a fresh order, if so advised, in accordance with law.


(M.Y. PRIOLKAR)
MEMBER (A)


(S.K. DHARON)
VICE CHAIRMAN

NS/