

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 788/1996

Date of Decision: 9.7.97

Shri G. M. Missal,

Petitioner/s

Shri K. B. Talreja,

Advocate for the
Petitioner/s

V/s.

Union Of India & Others,

Respondent/s

Shri Suresh Kumar,

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri B. S. Hegde, Member (J).

Hon'ble Shri M. R. Kolhatkar, Member (A).

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?


(B. S. HEGDE)
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 788/96.

Dated this 9th the September day of July, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).
HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

Shri G. M. Missal,
Ex. Asstt. Chief Ticket Inspector,
Central Railway,
Mumbai C.S.T., now working as
Sr. Ticket Collector, Kalwa
under D.R.M., Central Railway,
Mumbai C.S.T.

... Applicant

(By Advocate Shri K.B. Talreja)
Versus

The Union Of India,
Through the General Manager,
Central Railway, Mumbai C.S.T.,
Mumbai.

... Respondents.

The Divisional Railway Manager,
Central Railway,
Mumbai C.S.T.

(By Advocate Shri Suresh Kumar)

: ORDER :

PER.: SHRI B. S. HEGDE, MEMBER (J)

Heard Shri K.B. Talreja for the applicant and
Shri Suresh Kumar for the respondents.

2. In this O.A. the applicant is challenging the findings of the enquiry/disciplinary proceedings and also states that the punishment imposed is disproportionate to the quantum of negligence conducted and that the respondents have not followed the relevant rules while impesing the penalty, etc. He has filed this O.A. on 27.05.1996 against the order issued by the Disciplinary Authority on 06.07.1993 wherein it reads as follows :-

[Signature]

"For such negligence on your part, I have decided to impose the penalty of removal from service upon you. You are, therefore, removed from service from the date of receipt of this letter or with effect from 12.7.1993 whichever is earlier."

Thereafter, the transfer order was issued on 30.11.1993 against which the applicant preferred an appeal to the competent authority, who has passed an order on 22.10.1993 after giving a personal hearing. The Appellate Authority passed the order as follows :-

"However, taking into consideration of your past record and taking into account that the penalty (i.e. removal from service) will affect your pensionary benefit, I have decided to reduce the penalty to that of reduction in the lower grade i.e. Rs. 1200-2040 (RPS) as Sr. TC upto your requirement i.e. August 1999 (with cumulative effect).

Your Pay will therefore, be fixed accordingly in the Grade of Rs. 1200-2040 (RPS) as Sr. TC and you will be posted as Sr. TC and will be given stationary duty till your retirement."

The applicant filed M.P. No. 588/96 seeking condonation of delay.

3. On the other hand, the learned counsel for the respondents opposed the admission of the O.A. firstly on the ground that the O.A. is barred by time and secondly, the applicant has no locus standi to challenge the appropriate order passed by the competent authority in this case. The order passed by the competent authority is a speaking one and the applicant has been given due opportunity to defend himself, thereby, it is not sustainable.

BS

4. It is true that the Tribunal cannot interfere with the finding of the Inquiry Officer or Competent Authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislation or rules made under the proviso of Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with the principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter for the Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter. The Apex Court has consistently held that once it is made out that the enquiry is made in accordance with the relevant rules, the Tribunal cannot sit as an Appellate Authority to replace the findings of the competent authority. In the instant case, both the Disciplinary Authority and the Appellate Authority has considered the grievance of the applicant and passed the order. No where it is mentioned by the applicant that the authorities are biased and the order passed by them is arbitrary.

Prn

5. In the result, we do not find any merit in the O.A. and accordingly the same is dismissed at the admission stage itself. There will be no order as to costs.

M.R.Kolhatkar
(M. R. KOLHATKAR)
MEMBER (A).

B.S.Hegde
(B. S. HEGDE)
MEMBER (J).

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