

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

O.A.No. 736 of 1996.

DATE OF DECISION: 28.9.2001.

Shri Munir Khan Latif Khan

..Petitioner(s)

Shri T.S.Ahuja

..Advocate for
the Petitioner(s)

Versus

Union of India & Ors.

..Respondent(s)

Shri R.R.Shetty

..Advocate for
the Respondent(s)

THE HON'BLE SRI S.L.Jain, Member (J).

THE HON'BLE SRI S.K.Agrawal, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether His/Their Lordship wish to see the fair copy of the ~~z~~ Judgement
4. Whether the Judgement is to be circulated to the other Benches ?

JUDGEMENT DELIVERED BY HON'BLE SRI

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

NO. O.A.736 of 1996

Dated the 28th September, 2001.

C O R A M : 1. Hon'ble Mr.S.L.Jain, Member (J).
2. Hon'ble Mr.S.K.Agrawal, Member (A).

Shri Munir Khan Latif Khan,
Junior Clerk,
Ticket No.212 C & W,
Central Railway, Bhusawal.

(By Shri T.S.Ahuja, Advocate)

... Applicant

A N D

1. Union of India,
through General Manager,
Central Railway, Chatrapati Shivaji Terminus,
Mumbai.

2. Shri A.B.Paranjape,
AME (Cog) C & W,
Bhusawal.

3. Shri Niraj Kumar,
Divisional Mechanical Engineer,
(O & C), Central Railway,
Bhusawal.

4. Shri R.K.Sapre,
Additional Divisional Manager,
Central Railway, Bhusawal.

(By Shri R.R.Shetty, Advocate)

... Respondents

O R D E R

(Per Hon'ble Mr.S.K.Agrawal, Member (A))

The applicant is working as a Junior Clerk in the Office
of Divisional Railway Manager, Central Railway, Bhusawal. The
applicant is a Unionist and has been served with the charge sheet

dated 7.9.1994 for minor penalty on the ground that he committed serious misconduct/misbehaviour besides irresponsible working and insubordination.

2. The applicant is aggrieved by the order of the respondents imposing upon him a minor penalty of reduction to the lower stage in the time scale for 2 years. Hence this O.A.
3. Statement of imputations of misconduct or misbehaviour against the applicant, as mentioned in the charge sheet, are reproduced below :

"His serious misconduct, irresponsible working and insubordination in that on 17.4.1994, at 14.30 Hrs, he abused and used unparliamentary language with the office boy staff of CWS office, Bhusaval, viz., S/Shri Mitharam Pahuna, Krishna Chabildas and Avinash Kashinath, in the presence of Shri S.J.Jain, Head Clerk, Shri Z.A.Pathan, Head Clerk, CWS, BSL., and Shri Jagannath Soma, Fitter C&W, BSL. When the above mentioned staff complained on 18.4.1994 and furnished his working report to CWS, BSL, he in turn on 19.5.1994 abused and threatened to see Shri S.J.Jain and Shri Z.A.Pathan, using unparliamentary language, through the Union leaders, and one Shri Manso Khan an accomplice of had threatened and abused Shri S.J.Jain from Phone No.5968.

Apart from the above, he had failed to carry out the assigned job and disturbs the smooth office working and disturbs the working of other staff also.

This tantamounts to his serious misconduct and he has acted in a manner most unbecoming of a Railway Servant and thereby contravened the provision of Rule 3(1) ii, iii and Rule 26 of Railway Servants (Conduct) Rules, 1966."

4. It has been stated by the applicant in this O.A. that he has been doing free service to labour class and carved a place in the hearts of poor staff as a messiah, which was not liked by the staff belonging to Central Railway Mazdoor Sangh Union, who became enemical with the applicant.

5. The 1d.counsel for the applicant has submitted that the respondent no.2 did not consider the representation of the

applicant dated 3.11.1994 and gave his decision vide order dated 30.11.1994, whereby the applicant was penalised by imposing the penalty of reduction to a lower scale in the same time scale reducing his pay from Rs.1070/- to Rs.950/- in the scale of Rs.950-1500/- (RPS) for a period of 3 years.

6. The applicant thereupon filed an appeal before the appellate authority who vide order dated 15.1.1995, after considering the applicant's representation and the facts of the case, confirmed the penalty but reduced it from 3 years to 2 years. It has also been submitted by the applicant's counsel that the complaints made against the applicant were subsequently withdrawn by the complainants but this fact was not considered by the respondents by giving him the benefit ^{by} ~~and~~ cancelling the penalty imposed upon him.

7. The respondents have stated in their counter reply that a minor penalty has been imposed upon the applicant for his repeated insubordination and misbehaviour, unbecoming of a Railway Servant, whereby the applicant had repeatedly on four occasions, abused and used unparliamentary language against 2 Head Clerks. It has also been stated that four complaints have been received against the applicant on 18.4.1994, 17.5.1994, 19.5.1994 and 20.5.1994.

Thereafter, the respondents were forced to take note of the peculiar behaviour of the applicant which was highly unbecoming of a Railway Servant and thereupon a charge sheet was issued to him on 7.9.1994.

8. The respondents' counsel has also submitted that the immediate boss of the applicant under whom he was working was also very much dissatisfied with the work of the applicant and had written a letter

to the higher authorities on 17.5.1994 about the unsatisfactory working of the applicant, the contents of which are reproduced below :

"In connection with the above letter, Shri Munir Khan, Jr.Clerk (NP) was directed to work with me from 16.3.1994.

He is not attending his duties at schedule time as well as not picked up the work knowledge. Now and then he requires to leave his working spot to see or talk with officers.

Therefore, please arrange another Clerk vice him at the earliest to avoid delay in working and sending MCDO and other D.Os in due dates."

9. The 1d.counsel for the respondents has also mentioned that even upon finding the applicant's default for his repeated insubordination and behaviour, unbecoming of a Railway Servant, whereby he had repeatedly on four occasions abused and used unparliamentary language against two of his seniors, the respondents were quite lenient on imposing upon him a minor penalty, which was further reduced by the appellate authority. The respondents' counsel has, therefore, submitted that the penalty imposed is definitely not disproportionate to the guilt of the applicant. He further submitted that the respondents also desisted from taking severe action against the applicant and have actually not filed the police complaint against him despite the fact that he was trying to use extra-constitutional authorities and bad character persons to threaten the employees of the respondents.

10. Heard the 1d.counsel for the applicant as well as the respondents.

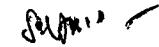
11. After considering all the facts of the case, we feel that the applicant was certainly at fault for having used abusive language towards his seniors as well as other staff of the Railways



and that specific complaints to that effect were filed by the employees of the Department to the superior officers against the bad and unbecoming behaviour of the applicant. This certainly gives an unhealthy trend, which not only results in spoiling the discipline but would also result in encouraging insubordination and misbehaviour among other employees of the respondents. The fact that the complainants had withdrawn the complaints against the applicant would not have any effect on the case since the same were withdrawn only after the penalty was imposed as also after the appellate authority had decided the case. We are, therefore, of the view that the penalty imposed, which is a minor one, having been further diluted by the Reviewing Authority, is not excessive looking to the guilt of the applicant and, therefore, does not call for any interference by this Tribunal.

12. We, therefore, do not find any merit in the O.A. and the same is accordingly dismissed with no order as to costs.


(S.K. Agrawal)
Member (A)


(S.L.Jain)
Member (J)

r.s.