

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 1053/96

Dated this Monday the 17th day of September, 2001.

R.D. Mahankale

Applicant

Mr. S.D. Raikar

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondent.

Ms.
Mr. Suresh Kumar holding for

Advocate for the
Respondents.

CORAM :

Hon'ble Shri Justice V. Rajagopala Reddy, Vice
Chairman.
Hon'ble Smt. Shanta Shastry, Member (A).

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library. ✓

Shanta J.
(Smt. Shanta Shastry
Member (A)).

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No.1053/96

Dated this Monday the 17th September, 2001.

Coram : Hon'ble Shri Justice V. Rajagopala Reddy, Vice Chairman
Hon'ble Smt. Shanta Shastry, Member (A).

Ratnakar Dominic Mahankale,
residing at Plot No.3, Survey No.36/2,
Mozes Wadi, Vadgaon-Sheri,
Pune - 411 014.

(Applicant by Shri S.D. Raikar, Advocate)

.. Applicant.

Vs.

1. Union of India, through
General Manager,
Central Railway,
Mumbai CST.
2. The Divisional Manager,
Central Railway, Mumbai Division,
Chhatrapati Shivaji Terminus,
Mumbai.
3. The Divisional Railway Manager,
Central Railway,
Chhatrapati Shivaji Terminus,
Mumbai.
4. The Assistant Divisional Railway
Manager (O), Chhatrapati Shivaji
Terminus, Mumbai.
5. The Senior Divisional Commercial
Manager, Chhatrapati Shivaji Terminus,
Mumbai.
6. The Divisional Commercial Manager,
Chhatrapati Shivaji Terminus,
Mumbai. .. Respondents.

(Respondent by Ms.
holding brief of Shri Suresh Kumar, Advocate)

O R D E R (Oral)
[Per : Smt. Shanta Shastry, Member (A)]

The relief sought in this application is to quash
and set aside the Order dated 18/20.1.1994 withholding the

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applicant's increment for 3 years with cumulative effect and the Order of the Appellate Authority confirming the aforesaid penalty.

2. At the relevant time the applicant was working as Head Travelling Ticket Examiner. The applicant had remained absent from 1.11.1991 and reported for duty on 3.11.1991. The applicant was issued with major penalty charge sheet dated 16/22.1.1992.

The particulars of the charges were as follows:-

"Article - 1

That the said Shri R.D. Mahankale HdTTE PA remained as absent from his duties from 1.11.91 to 3.11.91. He produced private medical certificate but did not follow the proper procedure of reporting his sickness under the treatment of medical doctor.

Article - 2

That the said Shri R.D. Mahankale HdTTE PA joined his duties on 3.11.91 on his own accord neglecting the standing orders from CTI PA(Line) and misbehaved with COR Shri A.K. Sonavane.

Thus the said Shri R.D. Mahankale HdTTE PA acted in a manner unbecoming of a Railway servant and then by contravened the provisions of rule No.2.1(I)(II)(III) of Railway Service Conduct Rules, 1966."

On denial of the charges, a regular enquiry was conducted and the enquiry officer held that Charge 1 was not proved and in case of Charge 2 part of it was held proved i.e. relating to not ~~the~~ following the standing orders in the matter. After the enquiry report was given to the applicant and not receiving the reply thereto, the Disciplinary Authority based on the enquiry report passed the impugned order on 21.1.1993 imposing the punishment of withholding of increments for 3 years with cumulative effect. Being aggrieved, the applicant preferred an appeal against the

same, however, the appeal was rejected on 21.1.1994. A further revision appeal filed was also rejected on 1.8.1995. Being aggrieved, the applicant has approached this Tribunal in 1996.

3..... It is the contention of the applicant that for merely not following of the standing orders he has been punished excessively. He had reported for duty on 3.11.1991 based on the fitness certificate given by the private medical practitioner. The standing Order No.135 dated 25.10.1991 reads as follows: "staff while reporting sick will follow the medical procedure intimating this office in advance. The staff will produce the medical certificate in this office and the detail will be given later on staff will not come direct on the train and work the train without the booking of the CTI (Line) PA.COR will not permit such staff to work on the train. CORs are empowered to exercise this power. Leave application should be given in advance in the office personally and the applications should not be dropped in the box. Caption report should be given in the office or dropped in the box no sooner the duty is over at PA Station. In violation of the above instructions, the staff will be directed to see Sr.DCS BB instead of reporting as per the procedure laid down in the aforesaid circular". The applicant went to resume duty directly on the train. The Ld. Counsel for the applicant contends that though the Standing Order was in force but sometimes the practice was followed of joining duty directly in special circumstances and reporting later on in a

particular case. The date on which the applicant resumed duty was Sunday and the concerned higher authority was not available. So he had reported directly on the train. According to him even the concerned officer had, during examination ~~had~~ stated that it was a practice to report directly after absence some times. Therefore the applicant should not have been penalised to this extent. It is rather ~~more~~ harsh. He could have been asked to go back and not allowed to join instead of conducting an enquiry and punishing him.

5. Learned Counsel for the respondents submits that the respondents have acted in a fair manner by conducting enquiry and giving full opportunity to the applicant to defend his case. The applicant was given the enquiry report but he did not represent against the findings. The Disciplinary Authority had considered the enquiry report and thereafter has passed the impugned order. The principles of natural justice were followed properly and since the applicant also did not deny, that he had not followed the Standing Order, the respondents are justified in their action of imposing penalty on the applicant and therefore the Ld. Counsel for the respondents urges that the application deserves to be dismissed.

6. We have heard the Learned Counsel for both the sides carefully and have perused the pleadings. We find that the principles of natural justice were followed and the applicant was

given due opportunity to defend his case. Also we find that the enquiry officer has taken into consideration the pleadings of the applicant including the explanation given by the applicant for reporting directly on the train in violation of the Standing Order No.135 dated 25.10.1991. It is ^{not} for us to reassess the evidence or to go into the facts, once the enquiry officer has applied his mind to the same. The enquiry officer has analysed the evidence and has given reasons for the findings. His findings is not arbitrary or perverse. Also the applicant failed to represent against the findings of enquiry officer holding that Charge II was proved partly. In the facts and circumstances of the case, we do not find any reason to quash and set aside the impugned orders. The applicant has pleaded that punishment is excessive and harsh. The power to impose penalty on a delinquent officer is conferred on the competent authority. The Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is not a matter for the Tribunal to interfere with. We therefore are not inclined to interfere with the quantum of penalty.

7. In the result, the OA is dismissed, with no order as to costs.

Smt. Shanta Shastry

(Smt. Shanta Shastry)
Member (A)

V. Rajagopal Reddy

Vice Chairman.

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