

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 646/99

WEDNESDAY the 5th day of FEBRUARY 2003

CORAM: Hon'ble Shri S.L. Jain - Member (J)

Hon'ble Smt. Shanta Shastry - Member (A)

Anvarullah J  
Group 'D' Employee  
Working as Cleaner  
Under CWS/BCT,  
Mech. Depot, Mumbai Divn.  
Mumbai Central.

...Applicant.

By Advocate Shri G.S. Walia.

v/s

1. Union of India, through  
General Manager  
Western Railway, H.Q. Office  
Churchgate, Mumbai.

2. Divisional Railway Manager  
Western Railway, Divn. Office  
Mumbai Central, Mumbai.

3. Chief Depot Officer  
Western Railway, Mech. Deptt.  
Mumbai Central, Mumbai.

4. Asstt. Mech. Engineer (Depot)  
Western Railway, Mech. Deptt.,  
Mumbai Central, Mumbai.

...Respondents.

By Advocate Shri A.I. Bhatkar.

ORDER (ORAL)

{Per S.L. Jain, Member (J)}

This is an application under Section 19 of the  
Administrative Tribunals Act 1985 to quash and set aside order  
dated 29.11.1995 (Annexure A 1) and 22.5.1996 (Annexure A2).

*S.L. Jain*

2. The learned counsel for the applicant states that he does not press the relief claimed in para 8 (c) as the period of suspension of the applicant has already been treated as period spent on duty (Annexure A 11).

3. The applicant was served with the charge sheet dated 20.12.1991. After an enquiry the applicant was penalised vide order dated 29.11.1995 to which he preferred an appeal, which was decided vide order dated 22.5.1996 (Annexure A 2).

4. On perusal of the charge sheet we find that the charge relates to 7.8.1991, while the complaint is made on 18.9.1991. The learned counsel for the applicant argued that it was delayed complaint by Fekuram.

5. The learned counsel for the applicant argued that it is a case of no evidence. We have gone through the evidence and we find that there is evidence against the applicant in respect of the said charge. We further find that on the said date due to shortage of the staff applicant was asked to work more.

6. The learned counsel for the applicant has drawn our attention to the reply submitted by the applicant on 6.3.1992. On perusal of the said reply we find that the applicant has nowhere claimed that he has complied with the order of the Mukadam but during the course of disciplinary proceedings, he claimed about the same as such the said evidence cannot be accepted in view of early reply dated 6.3.1992. It is true that he has not denied to work as ordered by Mukadam is mentioned in it.

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7. The charge relates to 7.8.1991 and the charge was established as per the evidence on record. We have also evidence on record that the applicant is an obedient employee and for such an action the punishment imposed withholding of next increment for a period of 3 years, shocks the conscious of the Tribunal. In the circumstances we find the applicant guilty and the punishment being severe one which shocks the conscious of the Tribunal.

8. Normaly it is for the departmental authorities to arrive to the finding regarding the punishment, but in the present case, keeping in view the statement of the Mucadam who was looking the work of the applicant, punishment being such which shocks the conscious of the Tribunal, we are inclined to interfere with the said punishment. In our considered opinion the punishment of 'censure' will meet the ends of justice. As such the OA is partly allowed and the punishment is modified to 'censure'. In view of modification of punishment the applicant is entitled to every consequential relief. The OA stands disposed of. No order as costs..

Shanta F

(Smt. Shanta Shastry)  
Member (A)

S.L. Jain

(S.L. Jain)  
Member (J)

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