

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Coram: Hon'ble Mr.A.S.Sanghavi - Member (J)
Hon'ble Mr.Shankar Prasad - Member (A)

O.A.1065 of 1999

Dated this Monday the 7th day of April, 2003

Vinayak Govind Sakat,
R/o Patelwadi,
Dhobhi Ghat Zopadpatti, Dahisar,
Mumbai.
(By Advocate Shri P.A.Prabhakaran)

- Applicant

Versus

1. The General Manager,
Western Railways,
Churchgate, Mumbai,
representing Union of India.
 2. Sr.DSTE-BCT,
Senior Divisional & Telecommunication
Engineer Mumbai Central Terminus,
o/o Divisional Railway Manager,
Western Railways,
Mumbai Central Terminus,
Mumbai.
 3. DSTE (II),
(Divisional Signal & Telecommunication
Engineer),
Western Railways,
Mumbai Central Terminus,
Mumbai.
 4. ASTE,
(Asstt.Signal & Telecommunication
Engineer),
Western Railway, Nundurbar.
(By Advocate Shri A.I.Bhaskar)
- Respondents

ORAL ORDER

By Hon'ble Mr.A.S.Sanghavi, Member (J) -

The Applicant who was engaged as a Khalasi Helper was served with a charge sheet on 28.11.1987 levelling imputations of unauthorised absence from duty and consequent to the Applicant admitting the charges, has been inflicted with the punishment of removal from service. After an unsuccessful appeal, the Applicant has approached this Tribunal by filing the OA. Shri

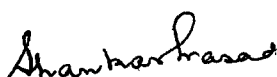
P.A.Prabhakaran, learned counsel for the Applicant has submitted that there was good reason for the Applicant to remain absent from duty as his son and family members were sick. In any case, the Applicant had shown his bonafide by admitting the charges. However, the Respondent-authorities have not shown any leniency towards the Applicant and imposed major punishment of removal from service on him. According to the Applicant the punishment imposed upon him is disproportionate to the charges levelled against him and deserves to be interfered with.

2. The learned counsel for the Respondents on the other hand maintained that the punishment is proper and valid and that Applicant had been guilty of unauthorised absence not once but several times and as such the authorities had no other alternative but to remove him from service. He has also submitted that the Applicant is an unwilling worker and since he was not willing to work, the punishment imposed cannot be said to be excessive, unreasonable or harsh.

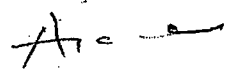
3. We have considered the rival contentions. We find that the Applicant was holding the post which cannot be considered as Safety category post or which can be said to a sensitive post. He was a lowly paid employee and punishment of removal from service, even if it is passed on admission of guilt can easily be said to be excessive, unreasonable and harsh. Punishment of removal from service not only brings about untold hardship and miseries to the Applicant but also brings about economic death to

his family. Such a punishment has to be resorted in rarest of rare cases and we find that the respondent-authorities have resorted to this punishment without application of mind. We are therefore of the opinion that the punishment imposed upon the Applicant deserves to be interfered with and in the conclusion we quash and set aside the punishment imposed upon him by the Disciplinary Authority and confirmed by the Appellate Authority and direct the Respondents to reinstate the Applicant in service. We remit back the matter to the Disciplinary Authority with a direction to reconsider the imposition of penalty on the Applicant and impose on him any adequate penalty except that of removal, dismissal or compulsory retirement. This exercise be carried out within a period of three months from the date of receipt of a copy of this order.

4. With the directions made above, this OA stands disposed of leaving the parties to bear their own costs.


(Shankar Prasad)
Member (J)

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(A.S. Sanghavi)
Member (A)