

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

O.A.NO.356/2000

Wednesday, this the 5th day of March, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)

Hon'ble Shri K.V.Sachidanandan, Member (J)

Nandu Krishna Wani
Ex Khalasi
Formerly working under
Carriage & Wagon
Superintendent, Railway Yard
B h

Residing at Railway POH Colony
Kandari Quarter No.1203
Bhusawal

...Applicant

(By Advocate: Shri Sandeep V. Marne)

Versus

1. Union of India through
General Manager
Central Railway
Headquarters Office
Mumbai CST, Mumbai - 400 001
2. Divisional Railway Manager
Bhusawal Division
Central Railway
Bhusawal
3. Asstt. Mech.Engineer (C&W)
DRM's Office
Central Railway, Bhusawal
4. The Divisional Mechanical
Engineer
Central Railway, DRM's Office
Personnel Branch, Central Railway
Bhusawal

...Respondents

(By Advocate: Shri R.R.Shetty)

O R D E R (ORAL)

Shri Govindan S. Tampi:

Heard S/Shri Sandeep V. Marne and Ravi R. Shetty,
learned counsel for the applicant and the respondents
respectively.

2. Nandu Krishna Wani, the applicant was proceeded
against vide charge-sheet dated 1.8.1996 containing two
articles of charge, of which he is found to have been

guilty in respect of one. However, by the impugned order of the disciplinary authority, both the charges are found to have been proved and extreme penalty of removal from service had been imposed on him. Shri Marne, learned counsel states that the proceedings initiated against the applicant ^{have} ~~and~~ vitiated on account of a number of infirmities. Further, he points out that in spite of the specific finding recorded by the inquiry officer that first out of the two charges raised against him in the show cause notice has not been proved, the disciplinary authority has held ^{it} as proved and proceeded to impose on him the extreme penalty of dismissal. This has been done without recording any note of disagreement, which should have been done, according to the law laid down by the Hon'ble Supreme Court in the case of Punjab National Bank & Others Versu Kunj Behari Mishra. Evidently, the fact that both the allegations indicated in the charge sheet stood proved had prompted the disciplinary ^{authority} to impose on him the harshest penalty of removal. The order was, therefore, vitiated and deserved to be set aside, pleads Shri Marne.

3. On behalf of the respondents, learned counsel Shri Ravi R. Shetty indicates that the applicant was found to have been guilty of manipulating documents and the said charge, by itself, could warrant the imposition of the extreme penalty. What has been done by the disciplinary is just that. Govt. servant, who is found to be guilty of manipulating documents, cannot be treated in a soft manner and the applicant cannot expect the respondents to act according to his wishes.

4. Having considered the matter, we are convinced that the applicant has a case in law. Of the two allegations contained in the charge sheet, first, according to the specific report filed by the inquiry officer, was not proved. Only the second charge stood established. Still, the disciplinary authority has held both the charges as proved. This has been done by him without supplying to the applicant a copy of the ^{inquiry} inspection report with specific note of disagreement, against which he would have had an opportunity to represent. The same not having been done, the order ^{is} ~~falls out of~~ the requirements of the principles of natural justice and the principle laid down by the Hon'ble Apex Court in Kunj Behari Mishra's case (supra). The plea raised by the learned counsel for the respondents that the second allegation contained in the charge sheet was ^{itself} sufficient enough to justify the imposition of the extreme penalty is neither here nor there. The fact remains that the inquiry officer had held one of the charges to be not proved but the respondents held to be so for penalising the applicant. The order is, therefore, liable to be quashed and set aside on this procedural irregularity and violation of the principles of natural justice.

5. In the above view of the matter, the OA succeeds and is accordingly allowed. The impugned orders are set aside and the matter is remitted to the disciplinary authority to start fresh proceedings from the stage of supplying a copy of the inquiry report along with disagreement note and take a decision accordingly. The applicant shall be reinstated in service at the earliest and in any event within a month from the date of receipt of a copy of this order. The

regularisation

period between the applicant's removal from service and his reinstatement shall be determined by the disciplinary authority strictly in accordance with law. No costs.

(K.V.Sachidanandan)
Member (J)

/sunil/

(Govindan S. Tampi)
Member (A)