

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 15/2000

DATE OF DECISION: 29.5.2001

Shri Ramesh Nana Applicant.

Shri N.C. Saini Advocate for  
Applicant.

Versus

Union of India and others. Respondents.

Shri R.R. Shetty Advocate for  
Respondents

CORAM.

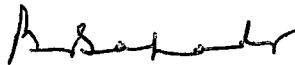
Hon'ble Shri Justice B.Dikshit, Vice Chairman.

Hon'ble Shri B.N. Bahadur, Member(A)

(1) To be referred to the Reporter or not? X

(2) Whether it needs to be circulated to X  
other Benches of the Tribunal?

(3) Library. X



\_\_\_\_\_  
(B.N. Bahadur)  
Member(A)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:15/2001

TUESDAY the 29th day of MAY 2001

CORAM: Hon'ble Shri Justice B.Dikshit, Vice Chairman

Hon'ble Shri B.N. Bahadur, Member(A)

Ramesh Nana  
Residing at Chandrabhaga Niwas  
Near Baramati Outer Signal Cabine  
Daund, Tal. Daund, Dist. Pune.

... Applicant.

By Advocate Shri N.C. Saini

V/s

1. Union of India through  
The General Manager  
Central Railway,  
CST, Mumbai.
2. The Divisional Railway Manager,  
Central Railway, Solapur,  
Dist. Solapur.

... Respondents.

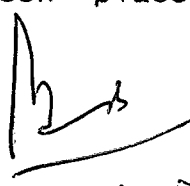
By Advocate Shri R.R. Shetty.

ORDER(ORAL)  
{Per Shri B.N. Bahadur, Member(A)}

The Applicant in this case, Shri Ramesh Nana has come up to the Tribunal challenging the penalty imposed upon him by the Disciplinary Authority vide order dated 31.7.1999, as also the order of Appellate Authority dated 28.9.1999 and the order of the Revisional Authority dated 30.8.2000. The Disciplinary Authority has imposed the penalty of removal from service on the applicant, and the other two authorities have confirmed this order.

2. The facts of the case made out by the applicant are that he was working as Diesel Assistant and was on duty on Train running from Daund to Manmad on 6.10.1998. He was return on duty on the day i.e. on 7.10.1998. The incident for which he was punished took place after his duty hours had terminated at Manmad on

...2...



6.10.1998. The applicant has been charge-sheeted as having been in an intoxicated condition at 20.45 hours on 6.10.1998 and for having used un-parliamentary words against Shri R.J. Singh and others in running room Railway premises. An enquiry was held after which the penalty under challenge was imposed on the applicant. The applicant has taken number of grounds in support of his contention which have been later argued by his learned counsel, Shri N.C. Saini. It is contended that the enquiry was not conducted in accordance with the procedure, and hence suffers, in legal terms.

3. The Respondents have filed a written statement, resisting the claims of the applicant, and explaining why the 2nd charge sheet was issued, and further amended. Details of the process of enquiry have been furnished in the written statement and it is stated that the applicant has indulged in a very serious mis-conduct. He was found in intoxicated condition at Railway premises during the rest hours, and also indulged in a behaviour unbecoming of a Government servant. The point regarding blood report of the applicant has been explained in the written statement.

4. We have seen the record in this case and have heard Learned Counsel on both sides. Shri Saini argued the case strenuously for Applicant, first making the point that even though the applicant had consumed Alcohol, the charges against the applicant have not been proved. The applicant had consumed Alcohol only after his duty hours and this act outside duty hours was not against any law/conduct rules.



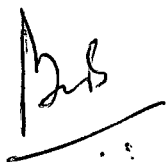
5. Another grounds argued by the Learned Counsel for the Applicant was that the enquiry was vitiated since proper procedure was not followed, and only one witness was examined. He stressed the argument at length on the point regarding the blood report, stating that blood report had not been taken in accordance with the procedures accepted in law. Therefore it cannot be dependent upon. He has also made other points regarding infirmity in the process of disciplinary enquiry in that details of the complaints was not indicated, only one witness was examined and the persons in the rest room were not examined. Similarly, the Doctor was not examined and the chemical analyser was also not examined. Thus he argued that no proper enquiry was held, in fact it was biased enquiry.

6. The learned counsel for the respondent based his arguments on the written statement, strauously making the point that the enquiry was properly conducted and that a serious allegation had been proved, and that no interference was called for.

7. In the first place, we find that the report of the enquiry officer has framed certain questions which we have seen (page 65 and 66 of the paper book). In the question at serial No. A to G all has been proved except B and C. As regards G, there are some observations..

8. It is clear from the report that the applicant had par-taken of Alcohol. It is also true that the applicant had consumed Alcohol after duty hours. The peculiar circumstances is

...4...

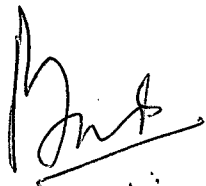


that even after duty hours the Railway Administration provides resting places in Railway premises, and whatever mis-conduct and mis-behaviour is alleged came to be noticed within Railway premises. Thus while on the one hand it is true that the applicant was not on duty it is also true that he was on Government premises.

9. We have considered at length the argument made by the Learned Counsel regarding propriety of procedure of the enquiry. We are aware of the law settled by the Supreme Court in this regard. Hence we do not proceed to re-examine the evidence like an appellate authority. We have examined it to the extent of checking if it was a case of violation of procedure or whether it was a case of no evidence. We find that the enquiry cannot be considered to have violated the procedure. For example on the point regarding non supply of blood report. It is clear that the applicant having admitted to have taken alcohol no prejudice can be caused even if the blood report was not given. Here the blood report was in fact supplied to the applicant. It is not necessary for us to reexamine the aspect of number of witnesses examined etc. It is clear that the enquiry cannot be faulted as suffering from violation of procedure or being a case of no evidence.

10. The most important point that comes to our mind, after going to through the facts and circumstances, and the arguments made on both side, relates to the quantum of punishment imposed on the Applicant. This point was also agitated by Learned Counsel for Applicant. There is no doubt that the quantum of

...5...



punishment imposed is clearly dis-proportionate to the charges proved against the applicant. We are conscious on the law settled by the Supreme Court in this regard and it is only after the most careful consideration of facts of the case we have arrived at the conclusion of the penalty being disproportionate to the extent of proved guilt.

11. Under the circumstances we dispose of this OA with a direction to the respondents (Appellate Authority) to re-consider the quantum of penalty and impose any penalty other than that of dismissal, removal or compulsory retirement. The OA is therefore disposed of with the following order.

O R D E R

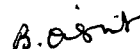
The Orders of Appellate Authority dated 28.9.1999 and the Revisional Authority dated 30.8.2000 are hereby quashed and set aside, in so far as the quantum of punishment is concerned. The Appellate Authority is hereby directed to re-consider the matter, only with regard to quantum of punishment and impose any penalty which he deems as fit, other than the penalties of removal from service, dismissal or compulsory retirement.

The above order shall be passed within a period of 8 weeks from the date of receipt of copy of this order.



(B.N. BAHADUR)  
MEMBER(A)

NS



(B. DIKSHIT)  
VICE CHAIRMAN