

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.81/1994.

Wednesday, this the 19th day of April, 2000.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri D.S.Baweja, Member (A).

Lalman Rampratap,
C/o. C.C.I.,
Base Kitchen,
Central Railway,
Nagpur.
(By Advocate Mr.P.G.Zare)

...Applicant.

Vs.

1. Union of India,
through the General Manager,
Central Railway,
Bombay V.T.
2. The Divisional Commercial Manager
(Catering), Central Railway,
Nagpur.
(By Advocate Mr.S.C.Dhawan)

...Respondents.

ORDER (ORAL)

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application filed under section 19 of the Administrative Tribunals Act, 1985. Respondents have filed reply. We have heard Mr.P.G.Zare, the learned counsel for the applicant and Mr.S.C.Dhawan, the learned counsel for the respondents.

2. The applicant was working as an Assistant Cook in the Central Railway at Nagpur at the relevant time. It appears, on 25.2.1988 the applicant was on duty as Assistant Cook and according to the administration he went to prepare Puris for the passengers of the G.T. Express bearing No.15. The applicant came

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to be suspended on the same day on the report of the Catering Inspector. Then, a charge sheet was issued against the applicant.

After regular enquiry, the Enquiry Officer recorded a finding that charge is not proved in view of the discrepancies in the timings since at the time mentioned in the charge sheet, the applicant was not on duty. The disciplinary authority found that the materials on record was sufficient to find the applicant guilty even though there was some discrepancy regarding timings. Accordingly, the disciplinary authority passed an order dt. 26.8.1993 imposing a penalty of reduction of pay to the lower stage for a period of two years without cumulative effect.

Being aggrieved with the order of the disciplinary authority, the applicant preferred an appeal, the appellate authority by order dt. 6.12.1993 confirmed the order of the disciplinary authority and dismissed the appeal.

Being aggrieved by this order, the applicant has approached this Tribunal by taking some grounds. According to him he has been falsely implicated and the charges are not proved.

3. Respondents have filed reply justifying the action taken against the applicant and they have supported the impugned orders.

4. The learned counsel for the applicant contended that there was no evidence to prove that the applicant had not prepared the food for the particular ^{time} in question, since at that particular time, the applicant was not on duty. He, therefore, argued that the findings recorded by the disciplinary authority and the appellate authority are without evidence and

therefore, liable to be set aside. The learned counsel for the respondents supported the impugned orders.

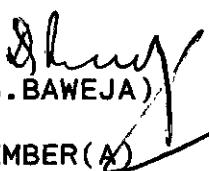
5. It is true that there was some discrepancy in mentioning the timings in the charge sheet, which do not tally with the working hours of the applicant and the order dt.25.2.1988. If this was the only material, we would like to agree with the applicant's counsel that the charges are not proved or at any rate the applicant was prejudiced in his defence due to wrong timings mentioned in the charge sheet. But, we find that in addition to mentioning the timings, there is specific allegation against the applicant of not preparing Puris for the passengers of Train No.15 and 16 G.T. Express, 60 UP and 1 DN. Therefore, the applicant is put on notice not only about timings, but also about the particular names and ~~number~~ ^{particulars} of trains, hence applicant knew as to what case he has to meet. Therefore, in our view, no prejudice is caused to the applicant about his defence since he knew what case he has to meet during enquiry. His defence was one of total denial. Then, the Catering Inspector has given a report on the same day viz. 25.2.1988 and on the same day the applicant is kept under suspension. That suspension came to be revoked about few days later on 10.3.1988. In the facts and circumstances of the case, we find that no prejudice is caused to the applicant in his defence due to wrong timings mentioned in the charge sheet.

6. As far as merits are concerned, it is purely for the domestic Tribunal to appreciate the evidence and then to decide whether mis-conduct is proved or not. The disciplinary authority by a speaking order has come to the conclusion that the charge is proved against the applicant. The ~~order~~ ^{appeal} has also been

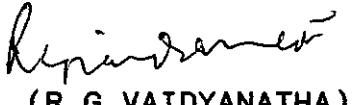
confirmed by the appellate authority. It is well settled this Tribunal while exercising judicial review cannot go into the realm of appreciation or sufficiency or inadequacy of evidence. That is a matter which is entirely in the domain of the domestic Tribunal. Even if another view is possible we cannot discuss the evidence and take another view.

7. It is not a case of no evidence, but it is a case of there being some evidence and it is for the competent authority to take decision one way or the other {vide Apparel Export Promotion Council Vs. A.K.Chopra (AIR 1999 SC 625)}. Having gone through the materials on record and in the light of the arguments addressed at the bar, we do not find any reasons to interfere with the findings of fact by the disciplinary authority or about the quantum of punishment. Hence, we find no merit in the application.

8. In the result, the OA fails and is dismissed. No costs.


(D.S. BAWEJA)

MEMBER(A)


(R.G. VAIDYANATHA)

VICE-CHAIRMAN

B.