

Original Application No.999.1994

Dated: 28.2.2001.

S.T.Thorat.

Applicant.

Shri B.Ranganathan

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri S.C.Dhawan

Advocate for
Respondent(s)

CORAM :

Hon'ble Justice Shri Ashok Agarwal, Chairman,
Hon'ble Smt. Shanta Shastry, Member (A).

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

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

(3) Library. *h*

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(SHANTA SHASTRY)
MEMBER (A)

B.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.999/1994.

Wednesday, this the 28th day of February, 2001.

Coram: Hon'ble Justice Shri Ashok Agarwal, Chairman
Hon'ble Smt. Shanta Shastry, Member (A)

S.T.Thorat,
Khalasi,
Diesel Shed, Sr.DME(D)'s
Office,
Pune.
(By Advocate Shri B.Ranganathan)

... Applicant.

Vs.

1. The General Manager,
Central Railway,
Bombay V.T.
 - 1A. The Chief Mechanical Engineer,
Central Railway,
Bombay V.T.
 2. Additional Divisional Railway Manager,
Central Railway,
Solapur.
 3. Senior Divisional Mechanical
Engineer (D),
Pune.
 4. Divisional Mechanical
Engineer (D),
Pune.
- (By Advocate Shri S.C.Dhawan)

... Respondents.

: O R D E R (ORAL) :

{Per Smt. Shanta Shastry, Member (A)}

The applicant in this case was charge sheeted on 27.7.1992 on three articles of charge and after conducting an enquiry was imposed the penalty of removal from service by the Disciplinary Authority, by order dt. 24.5.1993. The appeal preferred against the order was also rejected confirming the penalty on 16.8.1993. The applicant went in revision and in revision the Competent Authority, taking into consideration, the

...2.

applicant's family circumstances and purely on humanitarian ground decided to reinstate the applicant as 'Gangman' in the grade of Rs.800-1150 (RPS) under AEM/AMG at the stage of Rs.1,010/-. The period of absence from removal till reinstatement was to be treated as leave due and if no leave is due then as leave without pay vide order dt. 14.9.1993. Thereafter, when the applicant was posted to Ahmednagar, he again approached the authorities to give him a posting in Pune as he had to attend to his sick father. Again on humanitarian grounds, the Additional Divisional Railway Manager, Solapur passed orders on 23.11.1993 by reinstating the applicant as Khalasi in the Diesel Shed at Pune in the grade of Rs.750-940 at the stage of Rs.940/-. The period of his absence from removal to reinstatement was treated as leave due and if no leave is due, then it is to be treated as leave without pay.

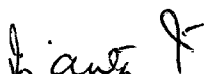
2. The applicant is aggrieved that the charge against him was on flimsy grounds and that he had assaulted somebody and that he threatened to go on an hunger strike. There was also a criminal proceeding against the applicant. However, that criminal complaint was dismissed. After the criminal proceeding were dropped since the applicant indulged in some antagonist activities of assaulting someone and threatening to go on hunger strike, a fresh charge sheet was issued to the applicant and based on the enquiry he has now been reduced in rank. Applicant's point is that he has been meted out with a double punishment, in that earlier he was reduced to the rank of a Gangman which carried a higher pay scale, whereas, by the impugned order dt. 23.11.1993 he has now ...3.

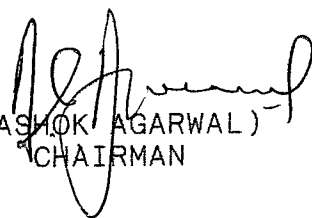
been reduced to a lower post which is not in the cadre in which he was working earlier, thus putting him to a loss of nearly Rs.390/- p.m. Secondly, the applicant's contention is that he was not given the enquiry report.

3. The Learned Advocate for the Respondents submits that the applicant was given the enquiry report and there is proof of receipt of the same by the applicant. Also the enquiry was conducted properly, all opportunities were given to the applicant. It had nothing to do with the complaint in the criminal case, that charge was dropped and then it is as a result of the fresh charge sheet that the applicant was punished and thereafter when the applicant made an appeal, it was considered in revision on humanitarian grounds and therefore, the respondents are justified in their action. Applicant himself did not want to go to Ahmednagar where he was posted after imposing the first penalty and therefore he was transferred to Pune and there being no other post equivalent to the post of Gangman in Pune Diesel Shed at that time, the applicant was accommodated there at his own request. Therefore, he cannot now complain about the reduction in rank and call it a double punishment. On the whole, the Respondents have been quite considerate.

4. We have heard the Learned Counsel for the applicant, as well as, the respondents. We find that the respondents have given full opportunity to the applicant right from the stage of enquiry and have not flouted any principles of natural justice while passing the penalty orders. Also they have been very considerate and sympathetic towards the applicant in reducing the

punishment to reduction in rank. It is seen further from an appeal filed by applicant dt. 19.8.1993 that the applicant had only pleaded for sympathetic consideration due to his family responsibilities and due to the sickness of his father. He has in fact, asked for pardon. The applicant had not taken any grounds other than the family grounds for setting aside the order of removal, yet the respondents were very considerate and they have reduced his punishment from removal to only reduction in rank. In the facts and circumstances of the case, we do not find this as a fit case for interference by us. In the result, the OA is dismissed. No costs.


(SHANTA SHASTRY)
MEMBER(A)


(ASHOK AGARWAL)
CHAIRMAN

B.