

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO.766/97

THURSDAY, THE SIXTH DAY OF SEPTEMBER, 2001

CORAM: SHRI S.L. JAIN. .. MEMBER (J)
SMT. SHANTA SHASTRY. .. MEMBER (A)

Ishwarlal C. Malaviya
working as Chief Book Supervisor,
under Station Superintendent,
Borivli, residing at Flat No.11,
Building No.5, Plot No.1,
Bhawani Nagar, Lotus Cooperative
Housing Society, Marol, Marorni Road,
Marol, Mumbai-400 059. ... Applicant

By Advocate Shri C.M. Jah

Versus

1. Union of India through its
General manager, Western Railway,
Churchgate, Mumbai-400 020.
2. Divisional Railway mamager,
Western Railway, Bombay Central,
Mumbai-400 008. .. Respondents

By Advocate Shri V.S. Masurkar.

O R D E R (ORAL)

Shri S.L. Jain. .. Member (J)

This is an application under section 19 of the
Administrative Tribunal Act, 1985 to quash and set aside
order dated 18.3.97 and 12.6.97.

2. The applicant was working as Chief Booking
Supervisor under Station Superintendent Borivli. He was
served with a charge sheet dated 19.12.96 under Rule 11
of Railway Servants (Disciplinary & Appeal) Rules, 1968
along with statement of imputations of misconduct or
misbehavior. The applicant replied to the said charge

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sheet. Thereafter, the Disciplinary Authority passed order dated 18.3.87. The applicant preferred an appeal against the said order, which was decided on 12.6.97 upholding the penalty awarded by the Disciplinary Authority i.e. with-holding of increment for a period of three years without the effect of postponing the future increments. Hence, this OA.

3. The respondents had resisted the claim of the applicant on merits and had alleged that the applicant failed to file the review, as such the OA is not maintainable.

4. During the course of the arguments, the learned counsel for the applicant argued that the charges are vague and hence, the applicant was not able to defend the charges properly. As such he was deprived of the opportunity to defend his case. Hence, the impugned orders deserves to be quashed. The charge as mentioned by applicant in para 4.5 of the OA reads as under:

"Shri I.C. Malviya, who was deputed to work in the morning shift on 28.10.96 to look after the windows and SPT machines failed in exercising proper supervision over the staff on duty. He was also not in proper uniform."

After the perusal of the said charge sheet we are of the considered opinion that the charges are not vague.

ASD -

5. The learned counsel for the applicant has placed on record the explanation submitted by the applicant at Exhibit "C" with the OA. On perusal of the said explanation, we do not find that the applicant has raised any objection regarding vagueness of the charge and by that he was not able to defend his case.

6. The learned counsel for the applicant relied on AIR 1986 SC 995 Sawai Singh Vs. State of Rajasthan particularly para 15, which reads under:

"Shri B.d. Sharma, learned advocate for the respondent, contended that no allegations have been made before the enquiry officer or before the High Court, that the charges were vague. In fact the appellant had participated in the enquiry. That does not by itself exonerate the department to bring home the charges."

A perusal of the said authority makes it clear that the mere fact that the applicant has participated in the enquiry would not result^m that the applicant is guilty of the charges. As such, we find that the said authority does not help ⁴for the applicant.

7. The learned counsel for the applicant argued that the appellate authority has passed a cryptic order. He has relied on AIR 1986 SC 1173 Ram chander Vs. Union

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of India & Others, para 3 of the said authority. The learned counsel for the applicant argued that the appellate authority failed to consider whether the findings of the Disciplinary Authority are warranted on record or not. It is suffice to state that imposing of minor penalty is mentioned. There is no vagueness in issue of the charge sheet and the applicant's objection was considered. Hence, the said authority does not help the applicant.

8. The learned counsel for the applicant also relied on AIR 1971 SC 752 (Surath Chandra Chakravarty Vs. The State of West Bengal) for the proposition ^{of} ~~that~~ the charge sheet being vague and indefinite. This question, as stated above, has already been decided that the charges are not vague. The question of supply of statement of allegations is admitted by the applicant that he has received. Hence, the said authority also does not come to the help of the applicant.

9. The learned counsel for the applicant further relied on 1995 (1) SLR Transport Commissioner Vs. A. Radhakrishna Moorthy that the charge memo - vague charges - particular of charges or supporting particulars not supplied to the delinquent. Charges neither specific nor clear - charge sheet quashed. As observed earlier, even the pleadings of the applicant in

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para 4.5 he has mentioned that he was served with a charge sheet along with statement of misconduct. Hence, it is also of no help to the applicant.

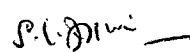
10. Ultimately the applicant's counsel argued that the applicant has refused to accept the ugly uniform, which was not as per measurement, which has resulted in issue of charge sheet. We do not find such plea of the applicant in view of his explanation at page 17 of the OA.

11. Lastly, the learned counsel for the applicant argued that the punishment awarded by the respondents is not proportionate to the charges levelled against the applicant. It is entirely at the discretion of the Disciplinary Authority and the Appellate Authority and we cannot interfere in the matter until and unless it shocks the ^{conscience} ~~conscience~~ of the Tribunal. We feel, by the explanation submitted by the applicant that the punishment awarded by the respondents is warranted and it does not shock the ^{conscience} ~~conscience~~ of the Tribunal.

8. In the result, the OA deserves to be dismissed and ^{is} dismissed accordingly. No order as to costs.


(SHANTA SHASTRY)

MEMBER (A)


(S.L. JAIN)

MEMBER (J)