

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.Nos.1034/97 & 1036/97

Dated this the 28th day of September 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Smt.Shanta Shastry, Member (A)

1. A.K.Mudliar (Applicant in OA.1034/97)

2. A.S.Khan (Applicant in OA.1036/97)

High Scale Fitter-I,
Ticket No.2264 & 2452,
MCO/S.E. Section,
Electric Loco Workshop,
Central Railway,
Bhusawal.

...Applicants

By Advocate none.

vs.

1. Union of India
through General manager,
Central Railway,
Mumbai CST.

2. Workshop Manager,
Electric Loco Workshop,
Central Railway,
Bhusawal.

3. Asstt.Electrical Engineer (DEV);
Electric Loco Workshop,
Central Railway,
Bhusawal.

4. Senior Electrical Engineer,
Electric Loco Workshop,
Central Railway,
Bhusawal.

...Respondents

By Advocate Shri V.S.Masurkar

O R D E R

{Per : Shri S.L.Jain, Member (J)}

These are the applications (OA.Nos.1034/97 & 1036/97) involving the same question of law and facts, hence, we proceed to decide the OAs. by common order.

2. The applicant in OA.NO.1034/97 and OA.No.1036/97 were working as H.S.F.-I at Electric Loco Workshop, Central Railway, Bhusawal. They were served with the minor penalty chargesheet dated 23.11.1995. They submitted the explanation denying the charges on 4.12.1995. After taking in to consideration the said explanation, the disciplinary authority on 23.11.1995 imposed the penalty which was challenged in appeal against the same and the appeals were rejected vide order dated 8.5.1996 and 9.5.1996.

3. The penalty imposed is with-holding of two sets of privilege passes.

4. The charge which was levelled against the applicants is as under :-

"That the said Shri A.K.Mudaliar and Shri A.S.Khan, H.S.F.-I, Gr.Rs.1320-2040 (RPS) working under SS(SE) ELW/BSL has got pasted a small poster on 13.10.95 with heading as "National Railway Mazdoor Union Bhusawal Mandal (G.N.Kumar Group)", not only pasted on Notice Board of NRMU (ELW) BSL Branch but also in various section of ELW Shop Floor wherein his name has been appeared. This so called National Railway Mazdoor Union Bhusawal Mandal has not been registered and not recognised by Rlys. which caused unrest on shop floor."

5. The respondents have placed for perusal of the Tribunal the file on the basis of which the chargesheet was served on the applicants. The charge levelled against the applicants is that "he has got pasted a small poster on 13.10.1995 with heading as "National Railway Mazdoor Union" Bhusawal Mandal (G.N.Kumar Group) not only pasted on Notice Board of NRMU (ELW) Branch but also in various sections of ELW Shop Floor wherein his name has been appeared...."

6. Before issue of chargesheet, there must be some iota of evidence on the record that applicant has got pasted such posters. In absence of such evidence, issue of chargesheet itself is bad in law.

7. On a report by National Railway Mazdoor Union dated 13.10.1995 by Secretary, the Welfare Inspector was asked to enquire and on the same day the Welfare Inspector submitted the report. On perusal of the report, we find that the posters were found pasted as alleged. It is further mentioned that he was not able to contact the applicants and on enquiry it was found that applicants were on leave.

8. On perusal of the report of the Secretary, NRMU, the applicants were said to have pasted the posters while the charge was "got pasted" for which there was no evidence on record. One is the act done by applicant himself and another is the act got

done by the applicant by some one else, hence the charge levelled against the applicants is based on no evidence. In such circumstances, when the applicant has denied the charge and the case is based on no evidence, we do not find that the charge levelled against the applicant ought to have been held to be proved and the applicant is liable to any penalty prescribed by law.

9. In the result, OAs. are allowed. Orders dated 8.5.1996 and 9.5.1996 passed by the Respondent No.2 (Exhibit-'A') deserves to be quashed and are quashed. No order as to costs.

(SMT.SHANTA SHAstry)

MEMBER (A)

(S.L.JAIN)

MEMBER (J)

mrj.