

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

O.A.NO. 742/88 : Date of order 17.3.93
OmPrakash : Applicant
Mr.Prem Asopa : Counsel for the applicant

VERSUS

U.O.I. & Ors. : Respondents.
Mr.Anil Mehta : ~~XXXXX~~ Brief holder of Mr.
G.S.Bafna- Counsel for
Respondents.

CORAM:-

Hon'ble Mr.B.B.Mahajan, Administrative Member

Hon'ble Mr.Gopal Krishna, Judl.Member.

PER HON'BLE MR.B.B.MAHAJAN, ADMINISTRATIVE MEMBER

Om Prakash had filed this application under Section 19 of the Administrative Tribunals Act against the punishment of reduction by one stage in the time scale for a period of one year without future effect imposed by the disciplinary authority, which had been subsequently reduced to that of reduction by one stage in the time scale for a period of 6 months by the appellate authority. The applicant while working as Jr.Shop Suprintendent was served with a chargesheet Annexure.A.1 dated 25..2.1987 in which he charged with having held Shri Tapan Kumar chargeman by his neck and further raised his hand to beat him. An inquiry was conducted into the charge. The inquiry officer held that the witnesses had failed to establish the charge against that applicant and he was exonerated of the charge.

The disciplinary authority did not agree with the finding of the inquiry officer and vide the impugned order dated 26.11.1987 (Annexure.A/3) imposed the punishment of reduction by one stage in the time scale Rs. 2,000-3200 for a period of one year without ~~furthex~~ future effect. The applicant filed an appeal against this order . The appellate authority by his order dated 27.1.88 (Annexure.A-5) reduced the penalty to reduction by one stage in the time scale for a period of 6 months without future effect. The revision ^{the} petition was dismissed by/Chief Workshop Engineer vide his order dated 22.6.1988 (Annexure.A.6).

We have heard the counsel for the parties. The disciplinary authority in his finding attached to the impugned order of punishment(Annexure.A-3) has held the charge as proved on the basis of the report of the officer who had conducted the preliminary inquiry. He has also observed that the inquiry officer had not called the complianant who could have thrown fresh light on the incident. The procedure followed by the disciplinary authority was not inconformity that the Rules. In case he felt that further inquiry was necessary by calling the complainant as an additional witness he could have remitted the case of the inquiry officer for further inquiry under Rule 10(2) of Railway Servants Disciplinary and Appeal Rules 1976. If he did not wish to have a further inquiry conducted and on the basis of the material brought in the inquiry had came to a different conclusion it was necessary for him to convey the basis of his finding to the delinquent official and give him an opportunity of making

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representation before passing the impugned order.

He could not have held the charge proved merely on the basis of the findings of the preliminary inquiry and statements recorded in the preliminary inquiry when a regular inquiry has already been held. The purpose of preliminary inquiry is only to establish the need ^{al} for holding the Department/^{alter}Inquiry and it cannot be used to ~~after~~ the conclusions arrived at in a Departmental Inquiry.

In view of the above, we allow this application set-aside the impugned order of the disciplinary authority dated 26.11.1987 Annexure.A.3 order of the appellate authority dated 27.1.88. Annexure.A.5 and of the revising authority dated 22.6.88 Annexure A.6.

Parties to bear their own costs.

C. Krishna
(GOPAL KRISHNA)
Judl. Member

B. B. Mahajan
(B.B. MAHAJAN)
Adm. Member

Anil