

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

O.A. No. 598/92  
Ex-246.

199

DATE OF DECISION

26/6/95

Sohanlal Sharma

Petitioner

Mr. B.B. Rawal

Advocate for the Petitioner (s)

Versus

Union of India & Another

Respondent

Mr. Manish Bhandari

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. O.P. Sharma, Member (Administrative)

The Hon'ble Mr. Rattan Prakash, Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal? ✓

(RATTAN PRAKASH)  
MEMBER (J)

(O.P. SHARMA)  
MEMBER (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of order: 26-6-1998

OA no. 598/92

Sohanlal Sharma S/o Shri Prahalad Prasad, resident of  
In front of New Sabji Mandi, Station Road, Bayana.

... Applicant

VERSUS

1. Union of India through the General Manager,  
Western Railway, Church Gate, Bombay.
2. Senior Divisional Commercial Superintendent,  
Western Railway, Kota Division, Kota.

C) CORAM

Hon'ble Mr. O.F. Sharma, Member (Administrative)  
Hon'ble Mr. Rattan Prakash, Member (Judicial)

For the Applicant ... Mr. B.B. Rawal.  
For the Respondents ... Mr. Manish Bhandari,

O R D E R

(PER HON'BLE MR. O.F. SHARMA, MEMBER (ADMINISTRATIVE))

In this application u/s 19 of the Administrative Tribunal Act, 1985, Shri Sohanlal Sharma has assailed the disciplinary proceedings initiated against him, culminating in the imposition of penalty on removal from service, which was subsequently reduced to that of reduction in rank and has prayed that the relevant orders in this regard may be quashed. He has further prayed that the respondents may be directed to restore him to his original position as TTE with all consequential benefits and treat the intervening period from removal to reinstatement as period spent on duty.

Q. 1. The case of the applicant is that he was initially appointed in the Railways on compassionate grounds as Box Boy, a Group 'D' post, and was subsequently appointed as Ticket Collector, a Group 'C' post on compassionate grounds. The appointment as Ticket Collector was in view of the Railway Board's communication dated 14.3.74, addressed to the General Manager, Western Railway, to the effect that the applicant should be appointed as Ticket Collector and posted in the

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Kota Division. Since the power to appoint Group 'C' employees on compassionate grounds vested only with officers not below the rank of General Manager in 1974, the Office of the General Manager, Western Railway, Bombay, issued a letter of offer of appointment dated 29.4.74, informing the applicant that he has been selected for training in the category of Ticket Collector for one month (Annexure A-2). Thereafter, on promotion as TTE in 1979, the applicant was posted at Gangapur City. The applicant was on duty on 26 UP Paschim Express leaving Delhi on 22.5.88 in the evening and was asked to perform his duties as TTE between Gangapur City and Ratlam in respect of Three Tier Sleeper Coach S-6. After performing his duties as aforesaid, he disembarked at Ratlam at 04.25 hours on 23.5.88. The applicant was called upon to give a statement on 3.6.88 in a preliminary enquiry, being conducted by one Shri S.P. Srivastava, Vigilance Inspector, Railway Board, New Delhi. During this enquiry, the applicant came to know that after he had got down at Ratlam on 23.5.88 after performing his duties, his compartment had been checked by the same Shri S.P. Srivastava. He had made out a case against the applicant that the applicant had not returned the balance amount of Rs. 26/- to a passenger out of a 50 rupee note, given by the passenger to the applicant, after charging Rs. 24/- for allotment of a berth, and also that he had allotted berths to fresh passengers ignoring the claims of the RAC passengers available in the Coach. Thereafter the applicant was served with a charge-sheet dated 16.11.88 under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968, ("Rules", for short) (Annexure A-3). The charge sheet was signed by Shri K.C. Singh, Senior DCS, Kota. Only one witness was cited in Annexure IV of the charge sheet and it was Shri S.P. Srivastava himself. At the time of checking, Shri S.P. Srivastava was alleged to have recorded the statement of the passenger to whom

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the balance amount of Rs. 26/- had allegedly not returned. However, the said passenger was not named as a prosecution witness to enable the applicant to cross examine him. However, the applicant cited the said passenger (Shri H.K. Nirala) as defence witness and produced him during the enquiry. The said Shri Nirala stated during his examination before the Enquiry Officer that he had given a statement during the preliminary enquiry by Shri S.P. Srivastava in his own hand-writing whereas Shri Srivastava had deposed during his examination before the Enquiry Officer that it was he (Shri Srivastava) <sup>who</sup> had recorded the statement of Shri Nirala. In his statement, Shri Nirala also stated that the balance of Rs. 26/- had been returned to him through another passenger travelling in the train on the same date. Further, according to the applicant, Shri Srivastava had not attested the statement made before him by the passengers making allegations against the applicant. This omission was not allowed to be rectified by the Enquiry Officer during the enquiry. While conducting the surprise check, Shri Srivastava did not choose to record statements of other PAC passengers, who had refused the berths from the previous TTE who had handed-over the charge to the applicant. Passengers of berths no. 39 to 47, who were apparently PAC passengers, had refused to accept the berths allotted to them and pay the reservation charges. The applicant approached another PAC Passenger, Shri H.C. Sood, occupying berth no. 55, who also refused to accept allotment of the berth. Therefore, the applicant entered "Refused Berth Allotment" against the names of such passengers. Berths no. 65, 66 and 67 were allotted only after Kota and that too after other passengers in the PAC list had refused to accept the berths. Thus there was in fact no irregularity on the part of the applicant while allotting berths to the passengers. The Enquiry Officer, however, held the charge of ignoring the PAC passengers

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and allotting berths to unreserved passengers as proved. During the enquiry, the Enquiry Officer demanded quid pro quo from the applicant which the applicant could not provide. Therefore, the Enquiry Officer gave a report which was unfavourable to the applicant.

3. Further, ~~proceeding against the applicant~~ as stated by the applicant, he made a detailed representation on 12.2.91 (Annexure A-7) against the Enquiry Officer's report dated 21.1.91 (Annexure A-6). The Senior DCS, Kota, vide order dated 2.5.92 (Annexure A-9A) removed the applicant from service. The applicant filed an OA no. 260/91 before the Jodhpur Bench of the Tribunal. The Tribunal directed the applicant vide order dated 8.8.91 to first file an appeal against the impugned order (Annexure A-10). In the applicant's appeal (Annexure A-11) dated 1.9.91, he made detailed submissions regarding his objections to the proceedings taken against him. One of the grounds taken in the said appeal was that the Senior DCS Kota was not the authority competent to remove the applicant from service because the applicant had been appointed to a Group 'C' post by the General Manager, Western Railway, and his removal by an authority lower in rank than the appointing authority was not justified. Several other objections were also raised to the proceedings in the said appeal. The appeal was disposed of by the Divisional Railway Manager, (DRM) Kota by communication dated 20.4.92 (Annexure-A). By this order, the DRM held that only the charge of not allotting berths to available RAC passengers and thereby causing loss of revenue was established against the applicant. As regards ~~off~~ the charge not returning the amount of Rs. 25/- to a passenger, he was given benefit of doubt. The penalty of removal imposed on the applicant was reduced to that of reduction in rank from the post of TTE to that of Ticket Collector i.e. from scale Rs. 1200-2040(RPS) to Rs. 950-1500(RPS), on pay of Rs. 1050 for

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three years. By order Annexure-B dated 27.7.92, the DEM Kota treated the period from the date of applicant's removal from service to the date of reinstatement as period not spent on duty.

4. The main grounds on which the proceedings have been assailed by the applicant are that Shri S.P. Srivastava, who carried out the surprise check had not attested the statements of the passengers recorded by him. He falsely claimed to have recorded the statements of the passengers himself, crucial witnesses were not called during the enquiry, and there were illegal demands from him by the Enquiry Officer. The Enquiry Report was, therefore, motivated. The applicant had been appointed by the General Manager, Western Railway, and therefore, termination of his services, or imposition of penalty of reduction in rank on him by the Senior DCS was illegal. This was a case of no evidence and even the appeal had not been decided within the period prescribed by the Tribunal. The applicant deserved to be acquitted. Also the treatment of the intervening period from the date of removal from service to that of reinstatement as period not spent on duty was unjustified.

5. The respondents in their reply have stated that the applicant's appointment letter( letter informing the applicant about his selection as Ticket Collector dated 29.4.74, Annexure A-3) was not signed by the General Manager but was signed by the Senior Commercial Officer (General). Therefore, The General Manager was not the appointing authority of the applicant. During the vigilance check, it was found that the applicant had taken an excess amount of Rs. 26/- from a passenger and had allotted a berth in an irregular manner to a fresh passenger, ignoring the claim of the RAC passenger. The statement of Shri Srivastava during the enquiry was an elaborate

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one and the applicant had an opportunity to cross-examine him during the enquiry. They denied the truth of the applicant's claim that Rs. 26/- were refunded by the applicant to the passenger who had given a Fifty Rupee note for allotment of berth and the claim that balance amount had been returned through another passenger was an afterthought. They have denied that RAC passengers would refuse the berths allotted to them. It is clear from the statement by one of the passengers, Shri Sood, that berth was allotted to him in the morning at about 5.00 hours. As per rules, a TTE is required to allot the berth to an RAC passenger as per his turn and if any passenger refuses to accept the berth allotted to him, such passenger cannot be allowed to remain in the sleeper coach. The applicant's appeal was considered, which was preferred by him as per the directions of the Tribunal and a lenient view was taken by the Appellate Authority, who reduced the penalty to that of reduction in rank. The applicant was not entitled to the pay for the intervening period from the date of removal from service to the date of reinstatement.

6. The applicant has filed rejoinder in which averments made by the respondents have been countered. The averments therein are more or less reiteration of what has been stated in the OA and there are no substantially new facts therein.

7. During the arguments, the learned counsel for the applicant drew our attention to the provisions of Rule 2 of the Rules in which the appointing authority in relation to an official has been defined. According to him, the highest of the four authorities mentioned in the definition in Rule 2(1)(a) is the appointing authority for the applicant. Numerous judgments have also cited before us by the learned counsel for the applicant in support of his various averments as above. One of these, Union of India Vs. H.C. Goel, AIR 1954 SC 364. In this judgment,

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the Hon'ble Supreme Court held that High Court has the power to enquire whether an order of dismissal of a public servant is based on no evidence. Another judgment cited by him was AIR 1973 SC 2701, S. Parthasarthy Vs. State of Andhra Pradesh, in which the Hon'ble Supreme Court held that enquiry conducted by a biased officer vitiates the order passed. Yet another judgment cited by him was Jiwanji Pratapji Thakore Vs. Union of India & Others, ATR 1999(2)CAT 102, delivered by the Ahmedabad Bench of the Tribunal. This judgment has been cited with a view establishing that in the matter of domestic enquiry when the findings of the Enquiry Officer and the Disciplinary Authority which are confirmed in appeal, are perverse and based on no evidence, interference by the Tribunal is justified. Yet another judgment cited by him was Dewan Ram Vs. Delhi Administration & Another 1(1991) CSJ CAT 274 (PB) New Delhi. This judgment has been cited with a view to establishing that when main witness was not produced and an opportunity to be defended by a Defence Assistant of the Government servant's choice was not allowed, the proceedings were vitiated. He next cited a judgment of Ernakulam Bench of the Tribunal in David Sadanand G. Vs. Union of India & Others, SLJ 1999(2) CAT 110, to establish that where the finding of the Enquiry Officer that the charge had been proved are based on no evidence, the findings were not sustainable. He also cited before us the judgment of the Hon'ble Supreme Court in Krishna Kumar Vs. Divisional Assistant Electrical Engineer, Central Railway & Others, AIR 1979 SC 1912, wherein it was held that removal from service by an authority subordinate to that which appointed a civil servant is unconstitutional in terms of Article 311(1) of the Constitution. Further, he relied upon the judgment of Hon'ble the <sup>S</sup>upreme Court reported at AIR 1986 SC 875 in the case of Board of Higher Secondary U.P. We could not locate the said judgment in the volume at the page referred to by the learned counsel for the applicant. He then relied upon the judgment of the Hon'ble Supreme Court in M/s Mahabir Prasad



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Santosh Kumar Vs. State of U.P. & Others, AIR 1970 SC 1302.

The learned counsel for the applicant cited this judgment with a view to establishing that an authority dealing with an appeal must give reasons while dismissing the appeal. In the instant case, according to the learned counsel for the applicant, the Appellate Authority had passed a cryptic order and had given no detailed reasons why the charge of wrongful allotment of berths to unreserved passengers was established and why only benefit of doubt was given to the applicant on the charge of not returning the amount of Rs. 26/- to a passenger, as there was no such concept as benefit of doubt in the disciplinary proceedings.

8. Concluding, the learned counsel for the applicant stated that the orders of removal/reduction in rank were passed by authorities, not competent to pass such orders. The Enquiry proceedings were vitiated because of the bias of the Enquiry Officer, and the applicant had been denied the assistance of a defence assistance of his choice. There were material contradictions in the statement of Shri Srivastava the only witness for the prosecution and therefore, for all these and other reasons given above, the proceedings were vitiated and all orders passed in consequence thereof were liable to be set aside.

9. The learned counsel for the respondents stated that the applicant had presented no order of appointment to show who had actually appointed him to the post held by him at the time when proceedings were initiated against him and when he was removed from service/reduced in rank. He claimed that Senior DCS is the appointing authority for a TTE and he had, therefore, rightly initiated the disciplinary proceedings against the applicant and had also imposed upon him the penalty

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of ~~from~~ removal from service, which had subsequently been reduced to that of reduction in rank by the DPM. He added that berths nos. 65, 66 and 67 had become vacant from Swaimadhopur at about 11.00 PM and these were allotted by the applicant only after Kota where the train reached at about 12.00 mid-night or thereafter. The berths had been allotted to unreserved passengers. It was surprising that unreserved passengers who did not hold PAC tickets were allotted to travel in the compartment and berths were also allotted to them. If PAC passengers had declined to accept the berths allotted to them, they should not have been allowed to continue their journey in the reserved compartment. It was irregular & improper on the part of the applicant to have allotted these berths to unreserved passengers. The Appellate Authority had already accepted that charge of not returning Rs. 26/- to a passenger had not been established and therefore, there are no points in dilating on this charge further. No evidence had been produced by the applicant regarding the bias on the part of the Enquiry Officer and no application had been made by the applicant at any stage, seeking change of the Enquiry Officer if the applicant felt that the Enquiry Officer was biased. The so called contradictions in the statement of Shri Srivastava were not at all material. The charge of allotting berths to unreserved passengers had been correctly held as established and the reduced penalty already imposed on the applicant which is that of reduction in rank deserves to be maintained.

10. By way of rejoinder, the learned counsel for the applicant drew our attention to the judgment of the Hon'ble Supreme Court reported at AIR 1963 SC 1292, Sailendra Nath Bose Vs. State of Bihar in which the issue involved was prosecution under Prevention of Corruption Act, 1947. He drew our attention to

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paras 12 onwards of this judgment which relate to the validity of the sanction for prosecution accorded by the authority concerned. Only an authority competent to remove a Government servant from service could accord sanction for prosecution. The Hon'ble Supreme Court held that the respondents had failed to establish that the authority which granted sanction for prosecution was in fact competent to remove the applicant from service. For this and other reasons, the Hon'ble Supreme Court allowed the appeal and set aside the conviction in that case. The learned counsel for the applicant stated that this judgment applied in the present case also. The respondents have failed to establish that Senior DCS was the authority competent to remove the applicant from service.

11. We have heard the learned counsel for the parties and have gone through the records and the judgments cited before us.

12. The first issue to be sorted out in this case is whether the General Manager was the appointing authority for the applicant. Annexure A-1, which is the Board's letter dated 14.3.74 stating that they have decided that the applicant should be appointed as Ticket Collector and posted in the Kota Division has been relied upon by the applicant as a document to show that the applicant was appointed by the General Manager. This letter is addressed to the General Manager, Western Railway. The appointment of the applicant was approved by the Railway Board presumably because it was an appointment on compassionate ground. The applicant has not claimed that the Railway Board was the appointing authority for him. He has claimed that the General Manager was the appointing authority for him because this letter is addressed to the General Manager. It is not clear how the General Manager

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Becomes the appointing authority of the applicant merely because the letter was addressed to the General Manager. Whoever may have approved the appointment of a particular person as a Government servant, it is the authority which actually signs the appointment order that becomes the appointing authority of that particular person. The applicant had failed to establish that he was appointed by the General Manager, Western Railway to the post of Ticket Collector. It was his duty to establish that the General Manager was his appointing authority, ~~and~~ if he claimed that a penalty of removal/reduction in rank cannot be imposed by an authority lower than the General Manager. It is not a case wherein the applicant has been prosecuted under any law and therefore, the burden to establish the claim made by him lies on him. Since it is the applicant who averred that the General Manager is the appointing authority for him, he should have produced the original letter of appointment as Ticket Collector as well as subsequent letter of appointment on promotion as TTE to establish who was the authority who actually appointed him. He had failed to do so. The applicant has kept silent about who actually appointed him as Ticket Collector as also who actually appointed him as TTE on promotion. Therefore, we are not impressed by the claim that the General Manager appointed the applicant to the post of Ticket Collector or to that of TTE. The reliance on Rule 2(1)(a) of the Rules, containing definition of the Appointing Authority does not clinch the issue in favour of the applicant. The applicant has been unable to show how any of the other authorities mentioned in the definition could be considered as the appointing authority in his case. In these circumstances, <sup>we</sup> cannot strike down the orders imposing penalty of removal or reduction in rank on the ground that these were passed by an authority lower than the appointing authority.

13. Another related issue is that the applicant was appointed as TTE on promotion and disciplinary proceedings were started

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and penalty was imposed when he was holding the said post. Who is the Disciplinary Authority for the applicant must be decided with reference to the post held by the applicant at the relevant time. The initial appointment of the applicant was Port Boy, next appointment was that of Ticket Collector and finally he was granted promotion as TTE. It stands to reason that the Disciplinary Authority must be determined with reference to the post held by a particular official at the particular point of time when disciplinary proceedings are taken against him and when penalty of removal/dismissal or reduction in rank is proposed to be imposed on him. Since the applicant has failed to establish that the penalty imposed on him was by an authority which was not competent to do so, we decline to interfere with the disciplinary proceedings or the final orders passed on this ground.

14. As regards the charge of failure of returning a sum of Rs. 25/- to one of the passengers, this charge has virtually been held as not established by the Appellate Authority and as a consequence, the Appellate Authority has already reduced the penalty imposed on the applicant to that of reduction in rank. Therefore, we need not discuss this charge further.

15. The only charge that remains now is the failure of the applicant to allot berths to RAC passengers and allotment thereof to unreserved passengers. The applicant's case is that RAC passengers had refused the berths allotted to them. He has stated that material witnesses, that is the passengers who could prove the charge against him, had not been produced during the enquiry as they had not been cited as witnesses by the Disciplinary Authority, and further that the evidence of Shri Srivastava who conducted the surprise check was incoherent sketchy and unreliable. The fact, however, is that if the RAC

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passengers had refused to accept the berths allotted to them, they had no right to travel in a reserved coach and the applicant did not state what efforts he made to remove those passengers from the reserved coach. He is silent on this aspect altogether. There were unreserved passengers travelling in the coach, who were offered berths by the applicant, which were reportedly refused by the RAC passengers. The applicant may not have been in a position <sup>to</sup> physically prevent the unreserved passengers from entering the reserved compartment but his failure to show the door to RAC passengers refusing to accept the berths allotted to them, and allotting the same berths to unreserved passengers, taken together, show that the applicant's conduct in this behalf was not above board. Regardless of the nature of the testimony which was relied upon by the Enquiry Officer for holding this charge against the applicant as proved, these are undisputed, hard facts which have not been denied by the applicant and, therefore, the charge of committing irregularity in allotment of berths to unreserved passengers must be held as established.

16. The applicant's counsel was at pains to stress that where the findings of the Enquiry Officer are based on no evidence, the Tribunal can interfere with such findings. This proposition is undisputed. However, as far as this case is concerned, we cannot say that there is no evidence against the applicant regarding the irregular allotment of berths to unreserved ~~passengers~~ passengers, which should have gone to RAC passengers. When there is some evidence in support of a charge, this Tribunal cannot interfere with the findings of the Enquiry Officer/Disciplinary Authority on the ground that the evidence in support of charge is not adequate. In this connection we may refer to the following observations of the Hon'ble Supreme

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Court in Union of India Vs. Sardar Bahadur, (1972) 2 SCR 218:-

"Where there are some relevant materials which the authority has accepted and which materials may reasonably support the conclusion that the officer is guilty, it is not the function of the High Court exercising its jurisdiction under Article 226 to review the material and to arrive at an independent finding on the material. If the enquiry has been properly held the question of adequacy or reliability of the evidence cannot be canvassed before the High Court."

17. The applicant has alleged bias on the part of the Enquiry Officer and has in fact made grave allegations against him, of demanding Quid Pro Quo from the applicant for making a report favourable to him. However, no proof in support of these allegations has been supplied. The applicant has also not made the Enquiry Officer as respondent by name or even by designation. He also did not make any application for change of the Enquiry Officer at any stage. In the face of these facts, the allegation of the applicant against the Enquiry Officer must be dismissed as wholly untenable.

18. We do not see material irregularity in the enquiry proceedings. The learned counsel for the applicant admitted during the arguments that ultimately the applicant was allowed to be assisted by a defence assistance which was of his choice, although he may not have been his first choice. The Appellate Authority has passed a detailed order and the fact that he has reduced the penalty to that of reduction in rank shows that he had considered the facts of the case objectively. Even if the applicant has been given "benefit of doubt" on the charge of failure of returning a sum of Rs. 26/- to a passenger, this charge has been virtually held as not proved by the Appellate Authority when he ordered imposition of a modified, lower penalty on the applicant. We do not see any material infirmity & in the order of the Appellate Authority.

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19. We have gone through the judgments cited by the learned counsel for the applicant. The propositions laid down therein are such as admit of no two interpretations. Unfortunately none of these apply to the facts of the present case, as is clear from a narration of facts of those cases and those of the case before us. There can be no dispute with the proposition laid down in H.C. Goel's case that an order of penalty (which is quasi judicial in nature) based on no evidence can be interfered with by the Court or the Tribunal, or that an enquiry conducted by a biased officer vitiates the order passed, (S. Parthasarthy case), but this is not a case of no evidence nor has it been established that the Enquiry Officer was biased against the applicant. For the same reasons, the Tribunal's order in Jiwanji Pratapji Thakore's case has no applicability to the facts of the present case. With regard to the Tribunal's order in Dewan Ram case, it may be stated that the applicant in the present case was ultimately allowed the assistance of a Defence Assistant of his choice, though he may not have been his first choice, and the investigating officer was cited as a prosecution witness and he was cross-examined by the applicant. If the applicant wanted any passenger to be examined, he could have cited him as a defence witness, as he did in the case of Shri N.K. Nirala. Hence this case is also of no avail to the applicant. Tribunal's order in David Sadanand case lays down a proposition which has already been referred to above and it has no applicability to the facts of the present case. Hon'ble Supreme Court's decision in Krishna Kumar's case <sup>here</sup> has no applicability/because the applicant has not been able to establish that the penalty of removal/reduction in rank was imposed ~~by~~ on the applicant by an authority, lower than the appointing authority. Hon'ble Supreme Court's judgment <sup>Prasad</sup> in Mahabir/Santosh Kumar will also not be applicable in the



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present case, because the Appellate Authority has indeed passed a fairly detailed, speaking order. The Hon'ble Supreme Court's judgment in Shailendra Nath Bose case has also no applicability here because, ~~the~~ as stated above, the applicant has not established that he was removed/reduced in rank by an authority lower than the appointing authority and the burden to prove his averment in this regard was on him, as these were departmental proceedings.

20. This Tribunal is not empowered to consider the adequacy or sufficiency of evidence for proving the charge against the Government servant in disciplinary proceedings. The Tribunal cannot sit as a Appellate Authority over the decisions of the departmental authorities to reach a different conclusion about the guilt of the Government servant concerned. In this connection the observation of the Hon'ble Supreme Court in Government of Tamil Nadu & Another Vs. A. Rajapanchan, 1995(29)ATC 89 are relevant:-

"It has been authoritatively settled by string of authorities of this Court that the Administrative Tribunal cannot sit as a court of appeal over a decision based on the findings of the inquiring authority in disciplinary proceedings. Where there is some material which the disciplinary authority has accepted and which material reasonably supports the conclusion reached by the disciplinary authority, it is not the function of the Administrative Tribunal to review the same and reach different finding that that of the disciplinary authority."

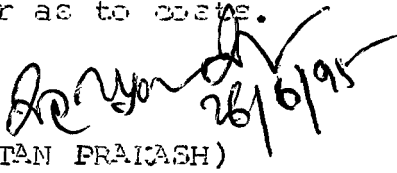
21. We hold that there was no infirmity in the proceedings in this case and the order of the Appellate Authority calls for no interference.

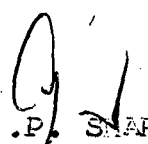
22. The applicant is also aggrieved by the order Annexure B passed by the Appellate Authority refusing to treat the period from the date of removal from service to

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that of reinstatement as period spent on duty. We have already given our findings that there was nothing irregular, improper in the penalty ultimately imposed on the applicant. In these circumstances, we decline to interfere with order Annexure B, passed by the Appellate Authority.

23. Taking all the above facts into account, we find no merit in this OA and it is accordingly dismissed with no order as to costs.

  
(PATTAN PRAKASH)  
MEMBER (J)

  
(O.P. SHARMA)  
MEMBER (A)

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