

(138)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.
O.A.NO.549 of 1992.

Between

Dated: 5.1.1996.

A.Subba Reddy

...

Applicant

And

1. Senior Divisional Operating Superintendent, S.C.Railway, Vijayawada.
2. Divisional Railway Manager, South Central Railway, Vijayawada.

...

Respondents

Counsel for the Applicant

: Sri. P.Ram Shah

Counsel for the Respondents

: Sri. J.R.Gopala Rao, SC for Rlys.

CORAM:

Hon'ble Mr. Justice V.Neeladri Rao, Vice Chairman

Hon'ble Mr. A.B.Gorthi, Administrative Member

Contd:...2/-

10
137
O.A.No.549/92

Date of Order:

Judgement.

X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

* * *

The relief claimed by the applicant is for setting aside the order dated 25.6.87 removing him from service and the appellate authority's order dated 6.1.92 confirming the penalty order, with all consequential benefits including his reinstatement in service.

2. The applicant was working as an Assistant Station Master (ASM) at Vijayawada Railway Station. He was served with a charge memo dated 22.3.86 containing 3 articles of charges. The gist of the allegations in the charge memo is that on three different occasions he had issued extra fare tickets for Rs.152/-, Rs.63/-, and Rs.110/- but in the accounts foil reflected receipt of only Rs.1/- on each occasion and thus misappropriated the balance of amounts. After a preliminary enquiry a regular enquiry was held at the end of which he found guilty and awarded the penalty of removal from service. His appeal was rejected by the Divisional Railway Manager by a non-speaking order.

and
3. The applicant filed OA.592/88 and it was allowed on the ground that the Senior Divisional Operating Superintendent (Sr.DOS) was not competent to impose the penalty of removal from service on the applicant. The Union of India filed Civil Appeal No.1981/89 before the Supreme Court and it was allowed with a direction that the case be remanded to the Tribunal for decision on merits. Consequently the OA was heard and by an order dated 24.7.91 it was held that the order of the appellate authority contained no reasons. Accordingly the case was remitted to the appellate authority for reconsidering the appeal of the applicant and for passing a reasoned order.

138

thereon. In pursuance of the Tribunal's order the appellate authority considered the appeal of the applicant again but rejected it by order dated 6.1.92. Hence this O.A.

4. Learned counsel for the applicant contended that the DOS was not competent to initiate disciplinary proceedings against the applicant. On this issue the respondents clarified that the applicant being in the grade of Rs.1400-2300 (RSRP), the DOS has the necessary power to institute disciplinary proceedings against him and to award one of the minor penalties as per Rule 8(2) of Railway Servants (Discipline & Appeal) 1968 read with Schedule II thereto. As the disciplinary authority in the instant case was not empowered to award any of the minor penalties, the enquiry proceedings were forwarded to the competent authority, namely, the Senior DOS. The contention of the respondents that the charge memo was issued and the penalties were imposed under orders of respective competent authorities is not correct in consonance with the relevant rules but also stands irreconcilable by the applicant.

5. The next issue agitated on behalf of the applicant was that he was denied the opportunity of engaging a defence counsel to represent him during the enquiry. The respondents did not allow a defence counsel during the enquiry, which is against the rules under which an employee cannot claim a right to be represented by a defence counsel during the disciplinary enquiry.

6. It was elaborately contended by the learned counsel for the applicant that the enquiry proceedings failed to consider the charges against the applicant. Only the Vigilance Officer Shri B.K.Singh was examined as a witness. The report of the Govt. Examiner of Questioned Documents was marked as an exhibit without calling the said Govt. Examiner as a witness.

139

applicant asked for 7 documents, but only 4 of them were furnished to him on the plea that the remaining documents were not available. There are also some factual errors in the details of articles of charge.

7. We have heard learned counsel for the applicant at length and also carefully perused the record of the enquiry proceedings. The evidence relied upon to support the charges was essentially documentary. All the relevant Extra Fare ticket foils were produced in evidence by Shri B.K.Singh, the Vigilance Inspector. In fact, Annexure IV to the charge memo would show that the charges were intended to be proved by examining only Shri [redacted] as witness. Legally speaking, the testimony of a single witness, if believed, is sufficient to establish a charge. The written opinion of the Govt. Examiner of Questioned Documents was brought in evidence during the enquiry. Non-examination of said expert witness, viewed in the light of the admission by the applicant that he himself wrote the EFTs, cannot be said to have caused any prejudice to the applicant in his defence. As the documents sought for by the applicant, the disciplinary authority supplied him with all the documents which were mentioned in Annexure III to the charge memo. Some of the additional documents asked for by the applicant during the enquiry were not given to him, as the disciplinary authority opined that they were not essential to the defence of the applicant. Thus, we do not find any such irregularity in the conduct of the enquiry which would call for quashing the proceedings.

8. The enquiry proceedings disclose that the applicant admitted his guilt in his written statements dated 22.8.85 and 21.10.85 on all the articles of charge. His explanation was that he committed the irregularities on the advice of [redacted]

L

and SM. As per the opinion of the Govt. Examiner of Question Documents, the EFTs in question were prepared in the handwriting of the applicant. With such evidence on record, when the Inquiry Officer and the disciplinary authority found the applicant guilty of the charges, the said findings cannot be to be unsubstantiated by the evidence on record. In the circumstances the penalty of removal from service is reasonable.

9. For reasons as aforesaid, we find no merit in this appeal and the same is hereby dismissed. No costs.

(A.B.GORTHY)
Member (Admn.)

(V.NEELADRI RAO)
Vice-Chairman.

Dated: 05 January, 1996.

br.

Deputy Registrar

To

1. The Senior Divisional Operating Superintendent, S.C.Rly, Vijaywada.
2. The Divisional Railway Manager, SC Rly, Vijayawada.
3. One copy to Mr.P.Ramshah, Advocate CAT.Hyd.
4. One copy to Mr J.R.Gopal Rao, SC for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

pvm.