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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Order: 13.9.2000

OA 279/94

Hemant Singh S/o Shri Daulat Ram, By caste Somvansh, aged about 32 years, R/o C/o Shri Dharam Singh Sethi, Near Police Station, Sikandara Road, Bandi Kui, Distt. Dausa. Ex-Class IV Employee in the Office of Divisional Railway Manager, Western Railway, Jaipur.

.... Applicant.

Versus

1. The Union of India through the General Manager, Western Railway, Church Gate, Bombay.
2. The Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur.
3. The Divisional Personnel Officer, Western Railway, Jaipur Division, Jaipur.

..... Respondents

Mr. P.P. Mathur, Brief holder for  
Mr. R.N. Mathur, Counsel for the applicant.  
Mr. Manish Bhandari, Counsel for the respondents.

CORAM

Hon'ble Mr. Justice B.S. Raikote, Vice-Chairman  
Hon'ble Mr. N.P. Nawani, Member (Administrative)

ORDER

(PER HON'BLE MR. N.P. NAWANI, MEMBER (ADMINISTRATIVE))

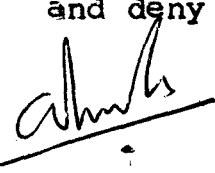
The applicant seeks quashing of the impugned order dated 8.11.1993 (Annexure A-2) of the Disciplinary Authority by which the penalty of removal of service was imposed on him and impugned order dated 21.4.1994 (Annexure A-1) by which his appeal was rejected and the penalty was maintained.

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2. The facts, as stated by the applicant, are that while serving in the railways as a Class IV employee at Jaipur, he fell seriously ill in January, 1991 and his family members moved him to Alwar/Bandi-Kui for his treatment. He has enclosed certificate from some doctors advising him rest for long stretches like 175 days (Annexure A-3), 258 days (Annexure A-4), illegible, 200 days as per Page 5 of OA (Annexure A-5), 180 days (Annexure A-6) and 3 days (Annexure A-7). His wife sent his brother to his place of work to inform about illness and his brother was told by one Shri Motilal (his Jentor and Supervisor) that an application will be made on his behalf. The grounds on which the applicant is challenging the impugned orders are essentially two fold. First, the enquiry was conducted ex-parte without exhausting all the means of informing him. Second, the Appellate Authority did not consider all the pleas he had taken in his appeal and did not sympathetically consider the reasons for his unauthorised absence due to his serious illness as also the indigent condition of his family.

3. Respondents in their reply have contested the averments made by the applicant. They have not admitted all the certificates annexed by the applicant and stated that these are not only contradictory but seems to be false and taken only with a view to cover the period of absence. It has also been stated that the applicant was unauthorisedly absent w.e.f. 1.1.91, whereas the first medical certificate is dated 18.10.1990 (Annexure A-3) at Alwar inspite of availability of high class medical facilities within railways at Jaipur. Many other contradictions and inconsistencies have also been pointed out. More importantly, the respondents have stated that the applicant was sent a number of informations about his absence/DAR action through registered post at the address given by him at the time of joining railway service and deny that any other address, permanent or otherwise, was given.



by the applicant. They have annexed certificates issued by the P & T Department to the effect that the service of registered letters could not be made as the applicant was not available. The applicant had strangely left the rented accommodation in the year 1990 itself, whereas he is supposed to have fallen ill in January, 1991 (Annexures R-2 to 6 refer). It is, therefore, contended that all these facts are sufficient to show that the applicant remained unauthorisedly absent and that too without information to the Railway administration. It has also been contended that Moti Lal has denied the averment made regarding applicant's brother having come to the work place of applicant and informed Moti Lal about the applicant's illness and absence. Finally, it has been contended that the Appellate Authority has rightly rejected the appeal of the applicant.

4. We have heard the learned counsel for the parties and have carefully gone through the pleadings alongwith annexures. We have also perused the record which was submitted before us by the respondents.

5. After carefully considering the rival contentions and examination of original records regarding the Departmental enquiry D.E. for brief), we are satisfied that all possible efforts were made to inform the applicant about initiation of D.E. against him as also sending of the copy of the enquiry report as also NIP as required under Railway Establishment Rules under the heading "Service of the Notice of Imposition of Penalty" (Ed. B.S. Maini); a photocopy of the relevant position was given to us. Not only was information sent to the applicant regarding proceedings, including advising him to <sup>nominate</sup> his Defence Assistant on the address given by the applicant while joining service by the registered post as can be seen from copy of registered letters dated 29.12.95, 15.1.93, 8.2.93

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and 25.2.93 at serials no. 15 to 25 in File No. ED/308/91/6(E) but the required documents were also pasted on the Notice Board. We have also seen the document dated 14.12.93 at page 61 of File No. ED/308/91/6(E) regarding pasting a copy of NIF at the address of residence last given by the applicant. It is, therefore, clear that all possible efforts were made by the respondents to obtain participation of the applicant in the departmental proceedings. We, therefore, hold that there is no force in the first ground put forward by the applicant that he was not informed properly about the DAR enquiry held against him.

6. As regards the contention of the applicant that the Appellate Authority has not considered all the circumstances while disposing of his appeal vide the impugned order (Annexure A-1), we have carefully gone through the said order as also the appeal dated 03.01.1994 made by the applicant (Annexure A-2). We do not find any infirmity in the appellate order. After being appointed as a Class IV employee at Jaipur, the applicant had remained on unauthorized absence for as long as seven months. He made no leave application. The medical certificate he sent from Alwar/Bandi-Kui do not provide cover for his absence. It is also surprising that the applicant left his rented house in 1990 itself whereas he was on unauthorized absence with effect from January, 1991. He neither availed of medical facilities available in Railway Hospital at Jaipur nor claimed any reimbursement. The appellate authority has found the penalty of removal adequate and felt and concluded that any leniency will be misplaced and detrimental to the maintenance of discipline in the office.

7. It is well settled principle in the service jurisprudence that the Court/Tribunal can interfere in departmental proceedings only if there is no evidence or findings are perverse or principles of natural justice have been violated. As regards quantum

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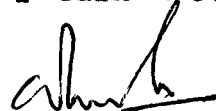
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of punishment, we can interfere only if it is such that it shocks our conscience. In this case the conduct of the charged official was such that we do not feel any need for interference.

8. In the circumstances, we find no justification to interfere with the impugned orders at Annexure A-1 and Annexure A-2 rejecting the appeal of the applicant and imposing penalty of removal from service respectively.

9. In the result, the OA is liable to be dismissed and is so dismissed with no order as to costs.

10. The Original case file received from the respondents may be returned to the learned counsel for the respondents.

  
(H.P. NAWANI)  
MEMBER (A)

  
(B.S. RAIKOTE)  
VICE CHAIRMAN