

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

.....

Date of Order : 1.6.2001

O.A.NO.342 OF 1994

Durga Prasad S/o Shri Hanuman Singh by caste Mali, aged 28 years, now-a-days Senior Clerk, Deputy C.E.E. Workshop, Ajmer, Western Railway, R/o 470/28, Bhajan Ganj, Ajmer.

.....Applicant.

Versus

1. Union of India through the General Manager, Western Railway, Church Gate, Bombay 20

2. Senior Personnel Officer, Loco Workshop, Western Railway, Ajmer.

3. Shri Harish Vardhan Sharma, Assistant Works Manager (Diesel)/Enquiry Officer, Western Railway, Loco Workshop, Ajmer.

.....Respondents.

.....

Mr. S.K.Jain

Counsel for the applicant.

Mr.S.S.Hassan

Counsel for the respondents 1 and 2.

.....

CORAM :

Hon'ble Mr.Justice E.S.Raikote, Vice Chairman

Hon'ble Mr.Gopal Singh, Administrative Member

.....

ORDER

PER MR.GOPAL SINGH :

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant, Durga

Leopals f

Prasad, has prayed for quashing the impugned order dated 19.7.1994 (Annex.A/1) and also the inquiry proceedings of the chargesheet dated 7.4.1990 (Annex.A/2).

2. Applicant's case is that when he was working as Senior Clerk in Shop Station -7, Loco Workshop, Ajmer, he was served with a chargesheet dated 17.4.1994, for major penalty on the ground that the applicant tried to obtain a P.T.O. on false documents along with one Shri Rajiv Saxena. On conclusion of the inquiry, a penalty of reduction to the initial stage of Rs. 1200/- in the time scale for a period of three years with future effect, effecting his future pay and increments, was imposed upon the applicant vide respondents order dated 19.7.1994. Hence, this application.

3. In the counter, it has been pointed out by the respondents No. 1 and 2 that the applicant has approached this Tribunal without availing the departmental remedy of appeal ~~in this case~~ under rule 18 of the Railway Servants (Discipline and Appeal), Rules, 1968 and, therefore, it has been pointed out by them that the O.A. is not maintainable. The other averments of the applicant has also been denied by the respondents and it has been submitted by the official respondents that the application is devoid of any merit and is liable to be dismissed.

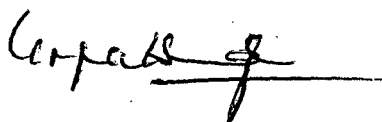
4. We have heard the learned counsel for the parties and have perused the records of the case.

5. The applicant, as also one Shri Rajiv Saxena, on allegation that conspired in issuing a P.T.O. on forged documents, were

Upadhyay

served with a major penalty chargesheet. In both the chargesheets, the imputation of mis-conduct was the same and the allegations were proposed to be proved through the same witnesses and almost the same documents. On conclusion of the departmental proceedings against Shri Rajeev Saxena, he was reverted to the lower post of Clerk pay scale Rs. 950-1500 and his pay was fixed at the stage of Rs. 1070/- in the scale of Rs. 950-1500 for a period of two years with cumulative effect. The said Shri Rajeev Saxena, had approached this Tribunal vide O.A. No. 111/1993 which was allowed on 12.12.2000 with the following observations :-

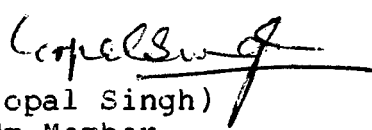
"14. In the instant case, it is apparent that no preliminary enquiry was conducted before the charge sheet was issued to the delinquent, the charges against the applicant appears to be vague and there is nothing on record to prove the delinquency of the applicant. There is no evidence on record that the applicant was deputed in Pass Section on 13.7.88 in place of Shri Messy, Head Clerk. There is also no evidence on record to reach to the conclusion that the applicant had prepared any pass pertaining to Shri Om Prakash. The allegation of the department that the applicant has signed as witness on the application could not be proved at all as signatures were not sent to the hand-writing expert for comparison. There is no direct as well as indirect evidence to prove the fact on record. On the basis of the evidence on record/before the enquiry Officer, it can be safely said that the findings of the Enquiry Officer are perferse for want of evidence and the disciplinary authority should not have imposed the punishment upon the applicant on such perferse finding. Therefore, the punishment imposed upon the applicant, in our considered view, is liable to be quashed."




6. Since the imputation of mis-conduct of both the applicant and Shri Rajeev Saxena, was same and the misconduct was sought to be proved by the same witnesses and through the same documents, we are of the view that the present O.A. is fully covered by this Tribunal's Judgement/Order dated 12.12.2000 passed in O.A.No. 111/1993. Accordingly, we pass the order as under :-

"Following the detailed reasons recorded in the judgement / order dated 12.12.2000 passed in OA No. 111/1993, this application is allowed. The impugned order dated 19.7.1994 (Annex.A/1), is quashed and set aside. The applicant would continue to hold the post in the pay scale of Rs. 1200-2040 without any reduction in the stages of pay, as if, no punishment was imposed upon the applicant."

8. The O.A. stands disposed of accordingly with no orders as to cost.


 (Gopal Singh)
 Adm.Member


 (Justice B.S. Raikote)
 Vice Chairman

.....

mehta