

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

31.08.2012

OA No. 01/2010

Since the advocates are abstaining from the work, the case be listed on 24.09.2012.

Anil Kumar

(Anil Kumar)
Member (A)

K. S. Rathore

(Justice K.S. Rathore)
Member (J)

ahq

24/09/2012

OA No. 01/2010

Mr. C. B. Sharma, counsel for applicant.
Mr. Anupam Agarwal, counsel for respondents

Heard.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar

[Anil Kumar]
Member (A)

K. S. Rathore
[Justice K.S. Rathore]
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 01/2010

DATE OF ORDER: 24.09.2012

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

C.L. Tomar S/o Shri Puran Singh, aged about 51 years, R/o Bungalow No. 684-E, Railway Colony, Gangapur City, District Swai Madhopur (Rajasthan) and presently working as Senior Section Engineer (Works), West-Central Railway, Gangapur City, Kota Division, Kota.

...Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, West-Central Zone, West Central Railway, Jabalpur (M.P.).
2. Principal Chief Engineer, West-Central Railway, Jabalpur (M.P.).
3. Divisional Railway Manager, West-Central Railway, Kota Division, Kota.
4. Additional Divisional Railway Manager, West-Central Railway, Kota Division, Kota.
5. Senior Divisional Engineer (North), West-Central Railway, Kota Division, Kota.

... Respondents

Mr. Anupam Agarwal, counsel for respondents.

ORDER (ORAL)

Brief facts of the case, as stated by the applicant, are that the respondents vide memo dated 18.03.1996 (Annex. A/4) served a charge-sheet to the applicant for major penalty on the basis of certain irregularities for the year 1991 alleging therein that the applicant failed in supervision of work of construction of Axle Counter Room and also failed to execute the work under reamed piles as per plan.



2. It is further submitted on behalf of the applicant that the applicant after receipt of the memorandum of charge-sheet, made request to the respondent no. 5 vide his requests dated 29.03.1996, 20.11.1996, 30.05.1997 and 22.08.1997 to made available copies of listed documents for submitting effective representation against the charge-memo, but the same were not made available to the applicant and the disciplinary authority appointed Inquiry Officer without appointing any Presenting Officer on behalf of prosecution side. The applicant also made a request vide his request dated 12.01.1998 to change Inquiry Officer.

3. The Inquiry Officer after conducting the enquiry submitted his report on 01.03.1999, and the Disciplinary Authority made available a copy of the enquiry report to the applicant with letter dated 10.03.1999 (Annexure A/12). The applicant submitted his detailed representation before the Disciplinary Authority against the enquiry report on 18.03.1999 (Annexure A/13). The Disciplinary Authority having considered the representation of the applicant as well as enquiry report, imposed punishment of removal from services with immediate effect vide order dated 24.05.1999 (Annexure A/14).

4. Aggrieved and dissatisfied with the order dated 24.05.1999 passed by the Disciplinary Authority, the applicant preferred an appeal on 31.05.1999 before the respondent no. 4. The Appellate Authority considered the appeal and quashed and set aside the order dated 24.05.1999 vide order dated 23.07.1999



(Annexure A/15) and remitted the case to the Disciplinary Authority to take further action from the stage of considering the defence of the applicant dated 18.03.1999 (Annexure A/13).

5. The respondent no. 3 / Disciplinary Authority has considered the matter afresh in view of the directions given by the Appellate Authority and passed order dated 04.11.1999 (Annexure A/16) imposing the punishment of reversion to next lower grade i.e. reversion to scale Rs. 6500-10500 on pay Rs. 6500/- per month for a period of three years with future effect.

6. The order dated 04.11.1999 passed by the Disciplinary Authority has been challenged by the applicant by way of filing OA bearing No. 521/1999 with prayer for quashing and setting aside the punishment order dated 04.11.1999 as well as charge-sheet dated 18.03.1996 with all consequential benefits. The Tribunal having considered the rival submissions made on behalf of the respective parties disposed of the O.A. vide order dated 24.03.2004 (Annex. A/17) with the directions to the applicant to prefer an appeal before the respondent no. 2 within 15 days with the further directions to respondent no. 2 to decide the same on merits by passing a speaking order within two months.

7. Pursuant to the directions issued by this Tribunal vide its order dated 24.03.2004; the applicant submitted an appeal on 29.03.2004 (Annexure A/18) before the respondent no. 2. Since the appeal of the applicant was not decided by the Appellate Authority within the stipulated period, the applicant preferred a



Contempt Petition bearing No. 28/2004 and after issuance of the notice and during the pendency of the Contempt Petition, respondent no. 2 decided the appeal of the applicant vide order dated 12.07.2004 (Annexure A/19) by which punishment has been modified to 'reversion to next lower grade i.e. reversion to scale Rs. 6500-10500 on pay Rs. 6500/- per month for a period of two years without future effect. Having considered this fact that the appeal has been decided by the appellate authority, the Contempt Petition was disposed of and notices issued were discharged vide order dated 03.09.2004 (Annexure A/20), and liberty was given to the applicant to file a fresh OA in accordance with law, if still, the applicant has any grievance.

8. Further, the applicant approached this Bench of the Tribunal by way of filing O.A. bearing No. 427/2004 against the order dated 12.07.2004 and prayed for quashing & setting aside the charge memo, order passed by the disciplinary authority and order passed by the appellate authority. Having considered the submissions made on behalf of the respective parties, this Bench of the Tribunal vide order dated 24.07.2009 (Annexure A/2) disposed of the O.A. by quashing the impugned order dated 12.07.2004 passed by the Appellate Authority, and further the Appellate Authority was directed to pass fresh detailed and speaking order thereby meeting out all the contentions as raised by the applicant in his appeal and as noticed above within a period of three months from the date of receipt of a copy of that order.



9. Pursuant to the directions given by this Bench of the Tribunal vide order dated 24th July, 2009 in OA No. 427/2004, the Appellate Authority considered the matter afresh and passed fresh order dated 27.10.2009 (Annexure A/1) by imposing the penalty upon the applicant for "reduction to lower grade in scale of Rs. 6500-10500 on pay of Rs. 6500/- per month for a period of two years without cumulative effect.

10. Aggrieved and dissatisfied with the order dated 27.10.2009 (Annexure A/1), the applicant has filed the present Original Application praying for the following reliefs:

"(i). That entire record relating to the case be called for and after perusing the same appellate order dated 27.10.2009 (Annexure-A/1) with the punishment order dated 04.11.1999 (Annexure A/16) be quashed and set aside with all consequential benefits.

(ii). That the charge memo dated 18/03/1996 (Annexure-A/4) with the inquiry proceeding be quashed, as the same is not justified as per facts and circumstances with all consequential benefits.

(iii). Any other order/directions of relief may be granted in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.

(iv). That the costs of this application may be awarded."

11. Learned counsel appearing for the applicant also placed reliance upon the order dated 03.03.1989 passed by CAT, Hyderabad Bench in **TA No. 634 of 1986** (R. Devadanam vs. the Union of India & Ors.) reported in 1989 (2) CAT, SLJ 131, and also order dated 14.10.2003 passed by CAT, Hyderabad Bench in **OA No. 463 of 2003** (C. Janardhan Rao vs. the F.A. and Chief Accounts Officer (WST), S.C. Rly, Secunderabad and



Ors.). Learned counsel appearing for the applicant also placed reliance upon the order dated 05th September, 2012 passed by this Bench of the Tribunal in **OA No. 511/2009** (Abdul Shakoor vs. UOI & Ors.) submitting that in the similar set of facts, while deciding the O.A., it was observed that the ends of justice would be met if penalty of reversion is reduced from two years to one year and the Disciplinary Authority was directed to modify the penalty order and, as such, he prays that the respondents, in the instant case, may be directed to modify the order dated 27.10.2009 (Annexure A/1) by which penalty of reduction to lower grade in scale of Rs. 6500-10500 on pay of Rs. 6500/- per month for a period of two years without cumulative effect has been imposed upon the applicant.

12. Per contra, learned counsel appearing for the respondents has strongly controverted the facts and submitted that the Inquiry Officer conducted the enquiry after affording the ample opportunity to the applicant of being heard, and after considering the inquiry report submitted by the Inquiry Officer, representation as well as appeal submitted by the applicant, the Disciplinary Authority as well as Appellate Authority passed the punishment order in accordance with the provision of law. It is further stated on behalf of the respondents that the allegations alleged against the Inquiry Officer, Disciplinary Authority as well as Appellate Authority are baseless. He submits that the Appellate Authority has thoroughly considered the submissions made by the applicant and remitted the matter back to the



Disciplinary Authority to take further action from the stage of considering the defence of the applicant.

13. Learned counsel appearing for the respondents further submits that the Disciplinary Authority considered the matter afresh and passed order dated 04.11.1999 imposing the punishment of reversion to next lower grade i.e. reversion to scale Rs. 6500-10500 on pay Rs. 6500/- per month for a period of three years with future effect in place of 'removal from Railway Service with immediate effect', which was ordered vide order dated 24.05.1999 (Annexure A/14). In view of the order passed by this Bench of the Tribunal in OA No. 521/1999, the respondent no. 2 decided the appeal of the applicant vide order dated 12.07.2004 by which punishment has been modified to 'reversion to next lower grade i.e. reversion to scale Rs. 6500-10500 on pay Rs. 6500/- per month for a period of two years without future effect'. Pursuant to the directions given by this Bench of the Tribunal vide order dated 24th July, 2009 in OA No. 427/2004, the Appellate Authority considered the matter afresh and passed fresh order dated 27.10.2009 (Annexure A/1) by imposing the penalty upon the applicant for 'reduction to lower grade in scale of Rs. 6500-10500 on pay of Rs. 6500/- per month for a period of two years without cumulative effect'.

14. Learned counsel appearing for the respondents further submits that in view of the above, the allegations alleged by the applicant that no finding has been given on the point of competency of Disciplinary Authority as well as allegations that



no findings has been given for delay in issuance of charge-memo and no findings has been given as regards to punishment imposed upon the applicant for reversion to lower grade, further allegations regarding procedural irregularities taken place during the proceedings, all are baseless as evident by the orders passed by the Disciplinary Authority as well as Appellate Authority, as discussed hereinabove.

15. Learned counsel appearing for the respondents further submits that the orders / judgments relied upon by the learned counsel appearing for the applicant is not applicable to the facts and circumstances of the present case. Learned counsel appearing for the respondents prays that in view of the above the present Original Application may be dismissed.

16. We have heard the rival submissions made on behalf of the respective parties and carefully gone through the pleadings, reply as well as the documents available on record. We have also gone through the orders passed by this Bench of the Tribunal in the OAs earlier filed by the applicant as well as the memorandum of charge-sheet, enquiry report, orders passed by the Disciplinary Authority and Appellate Authority.

17. The Disciplinary Authority considered the matter afresh and passed order dated 04.11.1999 imposing the punishment of 'reversion to next lower grade i.e. reversion to scale Rs. 6500-10500 on pay Rs. 6500/- per month for a period of three years with future effect' *in place of* 'removal from Railway Service with



immediate effect' and further the respondent no. 2 decided the appeal of the applicant vide order dated 12.07.2004 by which punishment has been modified to 'reversion to next lower grade i.e. reversion to scale Rs. 6500-10500 on pay Rs. 6500/- per month for a period of two years without future effect', and further the Appellate Authority considered the matter afresh and passed fresh order dated 27.10.2009 by imposing the penalty upon the applicant for 'reduction to lower grade in scale of Rs. 6500-10500 on pay of Rs. 6500/- per month for a period of two years without cumulative effect'.

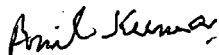
18. In view of the discussions made herein above, we find no new ground for modifications of the punishment order against the applicant and, as such, there is no ground, which requires any interference by this Tribunal. The request made on behalf of the applicant for reduction of punishment awarded to him to the effect that 'the period of two years without cumulative effect' may be reduced for 'the period of one year without cumulative effect' is also baseless, as the judgments / orders relied upon by the applicant are not applicable to the facts and circumstances of the present case.

19. Further, we find no illegality or error apparent on the face of the impugned order(s). It appears that the applicant persistently agitating the issue time and again on the more or less same grounds, but looking to the gravity of charges; we find no illegality in the impugned punishment order(s). As discussed herein above, the punishment, which is under challenge in the

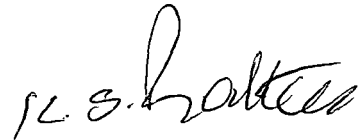


present O.A., cannot said to be shockingly disproportionate looking to the gravity of charges and looking to the facts and circumstances of the present case. In view of the above, the present Original Application deserves to be dismissed being bereft of merit.

20. Consequently, the present Original Application stands dismissed being bereft of merit. There shall be no order as to costs.



(ANIL KUMAR)
MEMBER (A)



(JUSTICE K.S. RATHORE)
MEMBER (J)

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