

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 23.8.2001

OA 232/96

Arvind Kumar Bhatnagar, Khalasi, Ticket No.2758, Yard Shop,
Western Railway, Kota.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Dy.Chief Mechanical Engineer (P&M), Western Railway, O/o Factory Manager, Western Railway, Kota.
3. Nirman Prabandhak O/o Chief Factory Manager, Western Railway, Kota.
4. Chief Factory Manager, Western Railway, Kota.

... Respondents

CORAM:

HON'BLE MR.A.K.MISHEA, JUDICIAL MEMBER

HON'BLE MR.A.P.NAGPATH, ADMINISTRATIVE MEMBER

For the Applicant ... None

For the Respondents ... Mr.Manish Bhandari

O R D E R

PER HON'BLE MR.A.K.MISHEA, JUDICIAL MEMBER

The applicant had filed this OA with the prayer that the impugned order dated 29.4.95 (Ann.A/1), passed by respondent No.3, and the impugned order dated 22.7.95 (Ann.A/2), passed by respondent No.2, be quashed. It is further prayed by him that the impugned order dated 14.6.95 (Ann.A/3), passed by respondent No.3, be amended and the benefit of promotion on the post of Senior Khalasi in the pay scale of Rs.775-1025 (EP) be granted to him. The applicant had also prayed for declaring the impugned

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charge-sheet dated 25.8.93 (Ann.A/4) as unfair and be quashed.

2. After hearing the learned counsel for the applicant, the OA was admitted on 24.4.96. Notice of the OA was given to the respondents, who have filed their reply, to which no rejoinder was filed by the applicant.

3. Before we proceed to narrate the facts of the case, it would be useful to mention that Shri N.K. Bhatt, learned counsel for the applicant, attended the hearing of the case on 20.1.2000 but thereafter he did not attend the case on many hearings i.e. on 26.7.2000, 28.9.2000, 14.12.2000, 22.2.2001, 18.5.2001, 1.6.2001 and even today nobody was present on behalf of the applicant and, therefore, we have heard the learned counsel for the respondents and considered the case on merits. Looking to the continuous absence of the learned counsel for the applicant it was not thought desirable to wait for him. Needless to say that the OA contains the facts and the legal grounds of attack and, therefore, we are of the opinion that considering the OA would be more than enough for disposal of the case.

4. From the OA it appears that while the applicant was working on the post of Khalasi, on 22.5.93 he was asked by one Shri Bajrang Lal at 8.00 AM to go in the Yard Shop and he should not waste his time in gossiping with Shri Mahipal Singh in the Wheel House. On this, the applicant used derogatory language and addressed Shri Bajrang Lal badly, for which the applicant was charge-sheeted. Shri Bajrang Lal made a complaint to the competent authority citing witnesses of the incident. Thereafter, the applicant was served with a charge-sheet (Ann.A/4). Inquiry Officer was

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appointed who, after inquiring into the matter and examining the relevant witnesses, submitted his report to the disciplinary authority holding the charges as proved. After considering the inquiry report, the disciplinary authority passed the punishment order (Ann.A.1). Appeal of the applicant was rejected by the appellate authority. Hence this OA.

5. The applicant had attacked the findings of the inquiry officer and the order of the disciplinary authority on the grounds of non-application of mind, passing cryptic order ignoring the contradictions in the evidence of the witnesses, no opportunity of personal hearing was given to the applicant, erred in not believing the statement of the applicant who was not subjected to cross-examine. It was also stated by the applicant that the charges against him are not proved. There are glaring contradictions in the statements of witnesses, who have been wrongly believed by the inquiry officer. The appellate authority also failed to exercise its power as per rules in ^{up}holding the punishment order, as provided, and the procedure adopted by the disciplinary authority, as fair. Hence the prayer in the OA.

6. The learned counsel for the respondents had argued that the applicant had misbehaved with his superior. There were many eye-witnesses to the incident who have very specifically deposed proving the occurrence. It was also argued by the learned counsel for the respondents that this is not a case of no evidence. The statements of witnesses are not required to be re-evaluated. Minor contradictions in the statements of witnesses are not helpful to the applicant. The scope of the Tribunal is very limited and the entire matter cannot be looked into by the Tribunal as

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an appellate authority. The sufficiency of facts in support of charges is the subjective satisfaction of the disciplinary authority. From the statements of witnesses the occurrence stands proved. There is enough evidence against the applicant in this regard. Therefore, so called contradictions in the statements of witnesses cannot help the Tribunal in coming to the conclusion that the charges are not proved. It was also argued by the learned counsel for the respondents that repetition of grounds of acceptance of the evidence in the order of the disciplinary authority is not necessary. Therefore, the order passed by the disciplinary authority cannot be held to be bad and non-speaking. The punishment is in proportion to the charges against the applicant. Since there was no violation of procedure, therefore, the appellate authority had not committed any error in accepting the findings of the disciplinary authority. It was also argued by the learned counsel for the respondents that vide order dated 5.6.97 the applicant was promoted to the post of Senior Khalasi in the pay scale of Rs.775-1025. A cyclostyled copy of the same was placed before us during the course of arguments, which has been kept in record for future reference.

7. We have considered the arguments raised by the learned counsel for the respondents. It appears that applicant's promotion in the year 1997 must have been the reason for his indifference to the prosecution of the present case. However, this aspect should not detain us from discussing the case on merits.

8. We have gone through the statements of witnesses (photo-copies annexed by the applicant to the OA). We are of the opinion that there is enough evidence against the

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applicant in respect of the charges. Contradictions here and there in the statements of witnesses of the prosecution are not helpful to the applicant. We are of the firm opinion that we are not acting as appellate authority for evaluating the evidence of the prosecution. This is not a case of no evidence. If there is some evidence in support of occurrence then we cannot substitute our conclusion in place that of the disciplinary authority. Needless to say that it is the subjective satisfaction of the disciplinary authority about the sufficiency and trustworthiness of the evidence which would finally guide the matter. At this stage, we may say that indiscipline of the lower functionaries is to be dealt with appropriately and if keeping in view the evidence of the prosecution relating to the occurrence the disciplinary authority had agreed with the conclusion of the inquiry officer then no error can be found in the order. The applicant has failed to show any concrete incidence in conduct of inquiry in order to drive home the contention of prejudice having been caused to the applicant. There is nothing to show that the complaint of Shri Bajrang Lal was due to ill-motive and certain prejudice, as alleged by the applicant. From the inquiry report (Ann.A/10) it appears that initially the applicant did not attend the inquiry. Therefore, the case was directed to be re-inquired by the disciplinary authority. Thereafter, the applicant appeared and cross-examined the witnesses in detail. There is nothing on record to show that the applicant was not accorded personal hearing in the matter. We are not going to enter into the controversy relating to the correctness or otherwise of the alleged ill-motive of Shri Bajrang Lal, as enumerated in the OA, as it would be exceeding our jurisdiction.

9. The punishment awarded to the applicant is not, in

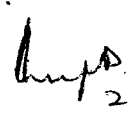
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our opinion, disproportionate to the charges. Indiscipline is required to be strictly dealt with keeping in view the over all interest of the organisation. If ^{for} the same, employee is dealt with strictly in matters relating to indiscipline then the punishment cannot be termed as excessive or disproportionate to the guilty, as has been tried to be made out.

10. Considering the appellate order, we are of the opinion that the record was carefully examined by the appellate authority and the order of the disciplinary authority was upheld. If the groundwise consideration and discussion has not been made and described by the appellate authority in its order, then the order cannot be said to be bad in law if the same has been made after due consideration of the record. Repetition of grounds of agreement by the appellate authority in respect of the findings of the disciplinary authority are ^{not} necessary. Therefore, contention of the applicant in this regard is also difficult to sustain.

11. In view of the above discussion, we are of the opinion that the applicant has not been able to make out any ground for quashing the findings of the disciplinary or appellate authority. Therefore, the OA deserves to be dismissed.

12. The OA is, therefore, dismissed. Parties are left to bear their own costs.


(A.P. NAGRATH)

MEMBER (A)


23/8/2001
(A.K. MISHRA)

MEMBER (J)