

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,  
JAIPUR.

Date of Decision: 18.4.2002

OA 321/97

Prabhu Lal, Head Trolley Man under CTCI, Sawai  
Madhopur.

... -Applicant

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Divisional Rly Manager, W/Rly, Kota Dn., Kota.
3. Divisional Signal & Telecom Engineer, W/Rly, Kota Division, Kota.
4. Sr.Signal & Div. Telecom Engineer, W/Rly, Kota Division, Kota.

... Respondents

CORAM:

HON'BLE MR.JUSTICE O.P.GARG, VICE CHAIRMAN

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

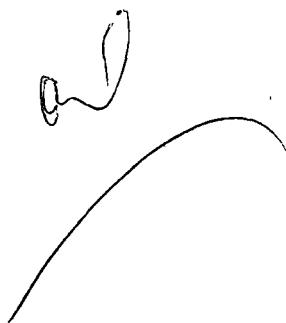
Mr.Shiv Kumar, counsel for Applicant

Mr.Anupam Agarwal, brief holder for Mr.Manish Bhandari, counsel for Respondents

O R D E R

PER HON'BLE MR.JUSTICE O.P.GARG, VICE CHAIRMAN

The applicant at the relevant time was Head Trolley Man. The gravamen of the charge against the applicant was that he had beaten up one Shri D.S. ~~Pasi~~ Pasi, a co-employee, on 7.2.95. Said D.S.Pasi was medically examined on the same day. Ultimately, the disciplinary proceedings were initiated against the applicant by serving a charge-sheet upon him, a copy of which is at Ann.A/1. The inquiry officer submitted his report dated 30.11.96 (Ann.A/8). After taking into consideration the report of inquiry, the disciplinary authority passed an order dated 29.1.97 (Ann.A/2), imposing penalty of reduction of the applicant to a lower stage in the pay scale with cumulative effect. Against the said order, the applicant preferred an appeal which was dismissed vide order dated 19.5.97 (Ann.A/3). It is in these



circumstances that the applicant has come before this Tribunal to challenge the order of the disciplinary authority as well as that of the appellate authority on the ground that it is virtually a case of no evidence and no order of punishment could have been passed against him.

2. A detailed reply has been filed on behalf of the respondents.

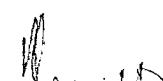
3. Heard the learned counsel for the parties.

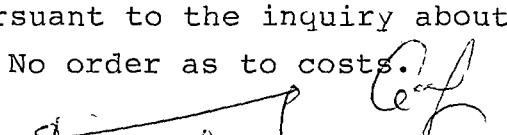
4. We have gone through the evidence led before the inquiry officer. During the course of inquiry, three witnesses namely Dal Chand Verma, Ram Chandra Meena and Mukesh Kumar Meena were examined. All these three witnesses have not supported the incident and they have pleaded total ignorance about it. No other witness was examined. It is amazing to note that even the injured person namely D.S.Pasi, whose medical examination report was referred to in the charge-sheet, was not examined. The doctor concerned, who is said to have medically examined said D.S. Pasi, was also not examined. There was no evidence at all to establish the alleged incident, which was the basis of the charge. Not only this, it was not established that said D.S.pasi had sustained injuries on account of threshing by the applicant. It was, therefore, a case of no evidence. Yet the inquiry officer by adopting an ipse dixit manner, held the applicant guilty. The disciplinary authority did not apply his mind to the evidence led before the inquiry officer and in a most routine, casual and perfunctory manner accepted the report of inquiry and passed the impugned order of punishment. Same is the case with the appellate authority. He does not appear to have applied his judicial mind to the facts of the case and dismissed the appeal in a mechanical amanner.

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5. We are conscious of the law that this Tribunal has a limited jurisdiction of judicial review and it cannot reappraise, re-evaluate or create the evidence and substitute its findings to arrive at the conclusion that the charge has not been proved. This firm legal position flows from the various decisions of the Apex Court, namely, B.C.Chaturvedi v. Union of India, (1995) 8 JT (SC) 65, State of Tamil Nadu v. T.V. Venugopalan, (1994) 6 SCC 302, Union of India v. Upendra Singh, (1994) 3 SCC 357, Government of Tamil Nadu v. A.Rajapandian, (1995) 1 SCC 216, and Union of India v. B.S. Chaturvedi, (1995) 6 SCC 749, Tamil Nadu and Another v. S.Subramaniam, AIR 1996 SC 1232, Director General of Police and Ors., v. Jani Basha, 1999 AIR SCW 4802, and Syed Rahimuddin v. Director General, CSIR & Others, 2001 AIR SCW 2388. Nevertheless, this Tribunal by invoking its power of judicial review can scrutinise the procedure adopted by the disciplinary authority with a view to ascertain whether the disciplinary authority has adopted the procedure, which is consistent with the essentials of a fair trial. This Tribunal is not deprived of the power to undo the wrong if it finds that it is a case of no evidence and yet an order of punishment has been passed. As pointed out above, it was a case of no evidence and the applicant has been found guilty on mere surmises and conjectures. There was no evidence, at all, to prove the charge against the applicant. The order of punishment cannot, therefore, be sustained.

6. In the result, the OA succeeds and is allowed. The order of punishment dated 29.1.97 (Ann.A/2) and the order passed on appeal dated 19.5.97 (Ann.A/3) are hereby quashed. The result of this order would be that it shall be treated that no penalty was ever imposed on the applicant pursuant to the inquiry about the incident dated 7.2.95. No order as to costs.

  
(A.P. NAGRATH)  
MEMBER (A)

  
(JUSTICE O.P.GARG)  
VICE CHAIRMAN