

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH : JAIPUR

Date of Decision : 17/4/2002

O.A No. 316/1998.

Moti Lal Kapoor son of Shri Dwarka Nath Kapoor, aged about 52 years, resident of 27/457, Isai Mohulla, Bhagwan Ganj, Ajmer, at present employed on the post of Shunter in the office of Loco Running Shed, Ajmer, Western Railway.

... APPLICANT.

v e r s u s

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Chief Mechanical Engineer, Western Railway, Churchgate, Mumbai.
3. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.
4. Divisional Mechanical Engineer, Western Railway, Ajmer Division, Ajmer.

... RESPONDENTS.

Mr. C. B. Sharma, counsel for the applicant.  
Mr. T. P. Sharma, counsel for the respondents.

CORAM

Hon'ble Mr. S. K. Agarwal, Judicial Member.  
Hon'ble Mr. A. P. Nagrath, Administrative Member.

: O R D E R :  
(per Hon'ble Mr. A. P. Nagrath)

A memorandum of major penalty dated 31.03.1984 (Annexure A-1), was issued against the applicant, on conclusion of the departmental enquiry. A penalty of



removal from service was imposed by the Disciplinary Authority vide order dated 18.07.1984 (Annexure A-2). In appeal, the Appellate Authority by order dated 12.01.1985, reduced the penalty to reduction to a lower scale. The applicant filed a revision petition against this order, but the same was rejected by the Revising Authority by order dated 04.04.1997. These orders have been challenged by the applicant in this Original Application.

2. We have perused the entire records of the case and also heard the learned counsel for the parties.

3. One of the grounds taken by the learned counsel for the applicant is that the Disciplinary Authority has passed a stereotyped order without application of mind. Further he <sup>has</sup> taken a plea that the defence witnesses were not called and the relevant documents were not supplied. The main plank on which these orders have been assailed is that the applicant had sought the change of Enquiry Officer, but his request was not acceded to. For these reasons, the Learned counsel contends that the order of the Disciplinary Authority and further orders thereafter are vitiated. It has been stated that the Appellate Authority also did not consider the contentions made in the appeal and the appeal was rejected abruptly.

4. Learned counsel for the respondents vehemently argued that the allegations of the opposite side have



no substance and that the order of the Appellate Authority is very detailed and takes into account all the points raised by the applicant in his appeal. Regarding the change of the Enquiry Officer, the Appellate Authority has stated that the applicant had himself submitted only one application on 24.04.1984, which was merely a request to change the Enquiry Officer but no reasons were given as to why this change was being sought. Learned counsel contended that such a request has rightly been rejected as the Enquiry Officer cannot be changed at the bidding of the charged official unless a ground of malafide has been made out.

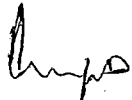
5. Learned counsel for the applicant asserted that the applicant had, in fact, submitted an application on 04.06.1984 for changing the Enquiry Officer on the ground of bias on his part. In this connection our attention was drawn to Annexure A-5, dated 04.06.1984. A perusal of this document has raised a serious doubt in our minds. This letter refers to some communication dated 19.04.1985, which is a date subsequent to the date of the applicant's representation. Learned counsel was at a loss to explain to us this glaring anomaly in the particular document on which he was primarily basing the relief. The respondents have also categorically denied the existence of any such document. It is also pertinent to note that in this document, which the applicant claims to be his representation for change of his Enquiry Officer, he does not make any mention of his

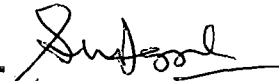


having earlier made request on 24.04.1984, to which he had also received a reply on 07.05.1984. We have no manner of hesitation in concluding that this is a misplaced effort on the part of the applicant to create a document to mislead this Tribunal, and we take a serious view of this conduct of the applicant.

6. We have perused the orders of the Appellate Authority. It is a speaking and reasoned order and addresses all the points raised by the applicant in his appeal including the contentions relating to non supply of some documents and the examination of the defence witnesses. The applicant has failed to make out any case, whatsoever, for our intervention

7. In view of the discussions aforesaid, while we dismiss this Original Application as totally devoid of merits, we consider it necessary to impose a cost of Rs. 500/- on the applicant for his attempt to mislead the Tribunal. The respondents are free to recover this cost from the pay of the applicant.

  
(A.P. NAGRATH)  
Adm. Member

  
(S. K. AGARWAL)  
Judicial Member