

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 8.5.2001

OA No.424/99

Ram Prasad s/o Shri Samenti r/o Quarter No.571/A, Railway Medical Colony, Kota Junction, Kota last employed as Dispensary Peon, Railway Hospital, Kota.

.. Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Chief Medical Superintendent, Office of Divisional Manager, Western Railway, Kota.
3. The Sr. Chief Medical Officer, Administration, Office of Chief Railway Manager, Western Railway, Kota.

.. Respondents

Mr. N.K.Singhal, counsel for the applicant

Mr. S.S.Hasan, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Newani, Administrative Member

ORDER

PER HON'BLE MR. S.K.AGARWAL, JUDICIAL MEMBER

In this original application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash and set-aside the impugned order dated 14.5.1999 (Ann.A1) and the appellate order dated 9.8.1999 (Ann.A4) with all consequential benefits.

2. In brief, the case of the applicant is that while working on the post of Dispensary Peon in the office of Chief Medical Officer, Western Railway, Kota, he was served with a memorandum of

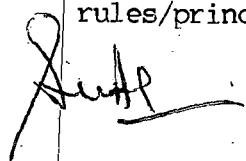
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charges dated 21.7.1994. The charge levelled against the applicant was that he claimed incorrect passes in favour of his children (Sons and Daughters) mentioning incorrect ages in the pass application form, thereby violated sub-rule (I), (II) and (III) of Rule 3.1 of the Railway Service Conduct Rule, 1966. The applicant denied the charge and after enquiry the applicant was dismissed from service vide impugned order dated 14.5.1999. The applicant filed an appeal before the competent authority, who has also dismissed his appeal vide order dated 9.8.1999. Therefore, the applicant has filed this OA for the reliefs as above.

3. Reply was filed. In the reply, it is stated that applicant claimed incorrect passes in favour of his sons and daughters mentioning incorrect age in the pass application form and he thereby violated sub rule (I),(II) and (III) of Rule 3.1 of the Railway Service Conduct Rules of 1966. It is stated that Enquiry Officer was appointed and after giving an opportunity of hearing to the applicant the Enquiry Officer submitted the report to the Disciplinary Authority, who after application of mind passed the order of penalty of dismissal from service of the applicant vide order dated 14.5.1999. It is also stated that the Appellate Authority has also considered the appeal of the applicant and passed the impugned order dated 9.8.1999 (Ann.A4) rejecting the appeal. Therefore, the applicant has no case for interference by this Tribunal and the OA is devoid of any merit and liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the applicant vehemently submitted that in this case there has been a gross violation of rules/principles of natural justice while conducting the enquiry

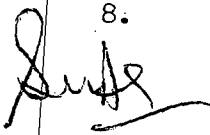


against the applicant. He has also argued that the punishment imposed upon the applicant is disproportionate to the gravity of the charge. On the other hand, the learned counsel for the respondents has argued that Enquiry Officer after following the rules/principles of natural justice has conducted the enquiry and the Disciplinary Authority after application of mind passed the impugned order of dismissal on the basis of gravity of charge levelled against the applicant. Therefore, no interference is needed by this Tribunal.


6. We have given anxious consideration to the rival contentions of both the parties.

7. Undisputedly, the applicant who was a Peon in the office of the Chief Medical Officer, Kota has mentioned incorrect age of his children while obtaining pass which was a facility available to him under railway rules. An employee is supposed to mention correct age/description of his family while obtaining the pass/PTO for himself and his family members and if he gives incorrect age/description regarding his children, in our view, he commits a misconduct for which a suitable penalty is required to be imposed upon the person concerned as per the gravity of the charge. In this case, punishment of dismissal appears to be disproportionate to the gravity of the charge. The applicant is a Class-IV employee and it does not appear that he mentioned incorrect age of his children with a view to gain illegal benefit out of that declaration. Therefore, merely mentioning the incorrect age of the family members of a Government employee while obtaining railway pass does not warrant the penalty of dismissal and it is definitely disproportionate to the gravity of the charge and it also shocks our consciousness.

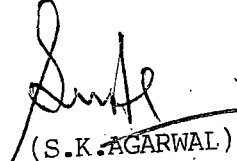
8. The Original Application is therefore, allowed to the



extent that the order Ann.A1 dated 14.5.1999 (order of dismissal of the applicant) and the order of the Appellate Authority dated 9.8.1999 (Ann.A4) are quashed and the case is remanded to the Disciplinary Authority for passing the appropriate order regarding quantum of punishment on the applicant after giving opportunity of hearing, keeping in view the gravity of the charge levelled against the applicant. The whole exercise must be completed within the period of 3 months from the date of receipt of copy of this order. No order as to costs.

  
(N.P. NAWANI)

Adm. Member

  
(S.K. AGARWAL)

Judl. Member