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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA No.82/1999

Date of order: 6.5.1999

Bijendra Singh S/o Shri Phool Singh, aged around 45 years, resident of Chabra Gugaur Baran.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Church Gate, Mumbai.
2. The Divisional Railway Manager (Estt.), Western Railway, Kota Division, Kota.
3. The Additional Divisional Railway Manager, Western Railway, Kota Division, Kota.
4. The Senior Divisional Engineer (HQ), Western Railway, Kota.

.. Respondents

Mr. Rakesh Sharma, counsel for the applicant

Mr. U.D.Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh, Administrative Member

Applicant, Bijendra Singh, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned orders dated 9.10.98 and 15.1.99.

2. Facts of the case are that the applicant was initially served with a chargesheet vide respondents' letter dated 25.8.98 (Ann.A3). The Disciplinary Authority, thereafter, has imposed a penalty of reduction to the lower stage in the scale Rs. 6500-10500 for a period of two years without cumulative effect upon the applicant. The applicant's contention is that the Disciplinary Authority has imposed the penalty without application of mind and further that while the chargesheet was issued for imposing minor penalty, a major penalty

Gopal Singh

9

has been imposed.

3. We have heard the learned counsel for the parties and perused the records of the case.

4. The Disciplinary Authority in his order dated 9.10.98 has stated as under:

I have gone through the defence of D.E. and remarks of AEN/N/Kn on it. I do not agree with points put forth by D.E. because it is beyond imagination that PWI who was accompanying the inspection could not tell AEN, when attendance was checked that the staff was on sanctioned leave. He is considered guilty and punishment of."

It cannot be said that the above statement of the Disciplinary Authority has been recorded without application of mind. We are not inclined to agree to the contention of the applicant in this regard and the same is rejected.

5. In regard to imposition of major penalty while the chargesheet was issued for minor penalty. The learned counsel for the respondents had brought to our notice provisions of Railway Servants (Discipline and Appeal) Rules, 1968. Rule 6 of the said rules provide minor/major penalties. In Rule 6 (iii)(b) it has been provided that reduction to a lower stage in the time scale of pay for a period not exceeding three years, without cumulative effect and not adversely affecting his pension would constitute a minor penalty. Circumstances under which the above penalty would constitute a minor penalty have further been explained as under:

"Effect of introduction of new minor penalty- Penalty (iiib) relating to reduction in stage in the time scale has been introduced as a new minor penalty but without omitting the same from the list of major penalties also. Therefore it is necessary to understand when the reduction in stage shall be a minor one and when it shall be major penalty.

To be imposed as a minor penalty the reduction in

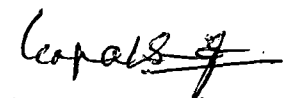
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stage must - (i) not be for a period exceeding three years; (ii) it shall not be with any cumulative effect; and (iii) it shall not adversely affect the pension of the employee. In all cases other than above the reduction in stage in the time scale shall continue to be a major penalty."

In the light of above provisions reduction of pay to the lower stage in the time scale for a period of two years without cumulative effect would not constitute a major penalty.

6. The learned counsel for the applicant has brought to our notice the provisions of penalty as provided in the Bhatnagar's Manual of Railway Laws, Second Edition under which reduction to a lower stage in the time scale of pay for a specified period has been mentioned as a major penalty. In other words, the contention of the applicant is that the penalty imposed upon him is a major penalty as per rules as provided in Bhatnagar's Manual of Railway Laws. We have carefully considered this arguments of the applicant. In this connection it would be appropriate to refer to CCS (CCA) Rules prescribed for Central Govt. employees. The Railway administration has been framing their own rules based on the rules framed by the Government of India for its employees. Under the head penalties in CCS(CCA) Rules reduction to a lower stage in the time scale of pay for a period not exceeding three years without cumulative effect and not adversely effecting his pension constitute a minor penalty.

7. In the light of above discussion, we find that the penalty imposed upon the applicant is a minor penalty and there cannot be two opinions about it. We, therefore, do not find any infirmity in the impugned orders. The application is devoid of merit and deserves rejection. It is therefore, dismissed with no order as to costs.


(GOPAL SINGH)
Adm. Member


(GOPAL KRISHNA)
Vice Chairman