

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 252/2001
T.A. No.

199

DATE OF DECISION _____

Idia _____ Petitioner

Mr. P.V. Calla _____ Advocate for the Petitioner (s)

Versus

UCI and two others. _____ Respondent

Mr. S.S. Hassan _____ Advocate for the Respondent (s)

CORAM :

~~The~~ Hon'ble Mr. Mr. Justice G.L.Gupta, Administrative Member.

The Hon'ble Mr. Mr. A.P. Nagrath, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(A.P.Nagrath)
Administrative Member.

(G.L.Gupta)
Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH: JAIPUR

O.A. No. 252/2001

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Date of Decision: 17.04.03

Idia, S/o Shri Nasira, aged about 45 years, at present working on the post of Gangman in the Office of Chief Permanent Way Inspector (North), Western Railway, Kota Division, Kota, resident of Quarter No. 59, Old Railway Colony, Kota Junction, Kota.

: Applicant.

rep by Mr. P.V. Calla: Counsel for the applicant.

-versus-

1. The Union of India through the General Manager, Western Railway, Church Gate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota Division, Kota.
3. Sr. Divisional Engineer (E), Western Railway, Kota Division,

: Respondents.

rep. by Mr. S.S. Hassan : Counsel for the respondents.

COMRAM: The Hon'ble Mr. Justice G.L.Gupta, Administrative Member.

The Hon'ble Mr. A.P. Nagrath, Administrative Member.



: O R D E R :

Per Mr. Justice G.L.Gupta:

The applicant was working as Gangman under the F.W.I. (North) Kota. On 13.01.1995, some incident took place in the office of the Shri Sanjay Dalela F.W.I. (North) Kota, in which Shri Dalela is said to have been man handled by one Nizam and the applicant Idia. Chargesheets were issued to the applicant Idia and Nizam. Separate inquiries were held.

2. It was alleged in the charge sheet that the applicant abetted the crime by Nizam and he himself also manhandled and beat Shri Dalela and thereby he interrupted the Railway work and terrorised the Supervisor by abusing and beating him and failed to discharge his duties properly. In the chargesheet the names of four witnesses were cited and one document dated 14.01.1995 was referred to. Enquiry was conducted by Shri M. I. Beg, Office Superintendent, A.E.N., West, Kota. He gave a report that the charges framed against the applicant Idia were not established. The Disciplinary Authority, however, did not agree with the report of the Enquiry Authority and issued a show cause notice (Annexure A-10 dated 16.03.2000) to the applicant. The applicant filed his objections Annexure A-11 dated 28.03.2000. The Disciplinary Authority vide Annexure A-1 dated 05.05.2000 held that the charges against the applicant were established, and imposed the penalty of reduction of pay to the lowest stage of Rs.2610/- in the time scale of Rs.2610-3450/- for a period of three years with future effect and ~~with~~ lowest seniority tantamounting to fresh appointment of the applicant. In the appeal preferred by the applicant, the Appellate Authority vide Annexure A-2 dated 15.07.2000 agreed with the findings of the Disciplinary Authority on merits but reduced the penalty. The effect of the Appellate order was that the seniority of the applicant



remained intact. The applicant preferred a revision petition which proved abortive ^{vide} order dated 15.02.2001 (Annexure A-3). Hence this OA challenging the orders of Annexure A-1, A-2 and Annexure A-3.

3. It is averred that the witnesses have not supported the case of department and the findings of the Disciplinary Authority are arbitrary. It is stated that penalty order is based on no evidence, which shows the bias attitude of the Disciplinary Authority. It is also stated that the principles of natural justice were violated, as the documents supplied to the applicant were in English and on his request Hindi translation of the documents was not supplied to him.

4. In the counter, the respondents' version is that the Disciplinary Authority has passed the order on the basis of the oral and documentary evidence and the court should not interfere. It is further stated that the penalty is not harsh.

5. We have heard the learned counsel for the parties and perused the documents placed on record.

6. Mr. Calla pointed out that the charge sheet was issued to Nizam also but no steps have been taken to punish him. According to him, if any incident had taken place, he, viz; Nizam was the main culprit and the applicant has been unnecessarily punished in the matter. He pointed out that the Hindi translation of the documents was not supplied to the applicant and this has caused prejudice to the case of the applicant. His further contention was that the Enquiry Authority had recorded cogent reasons to hold that the charges were not proved and the Disciplinary Authority without any evidence has recorded the finding of guilt. He submitted that when it is a case of no evidence, the court should interfere in the orders passed by the respondents.



7. On the otherhand, the learned counsel for the respondents contended that the scope of judicial review in such matters is very limited and Court should not interfere in the orders of the Disciplinary Authority and affirmed by the higher authorities which are based on the material on record.

8. We have given in the matter our thoughtful consideration. There cannot be any dispute in this legal position that the scope of judicial review in the matter of the disciplinary proceedings is very limited and the court cannot upset the findings of the Disciplinary Authority on the ground of unreliability or insufficiency of the evidences. However, the facts which have emerged on record have compelled us to take a view different than the one taken by the Disciplinary Authority.

9. As already stated, the charge against the applicant was that he alongwith Shri Nizam had manhandled Shri Dalela. The evidence recorded during the enquiry proceedings indicates that though Shri Dalela supported the case for the department but none of the alleged eye witnesses corroborated the statement of shri Dalela. Shri Durga shanker and Mange Lal, Gangmen, who are said to have intervened in the occurences have stated that they did not see any occurence of beating or manhandling. According to the statement of Shri Dalela, Ram Kumar Verma had also intervened in the occurence. However, Ram Kumar Verma has also denied to have seen any occurence of beating or manhandling.

Shri S. P. Singh admittedly was not present at the time and place of occurence. The fact remains that none of the cited witnesses has corroborated the statement of Shri Dalela.

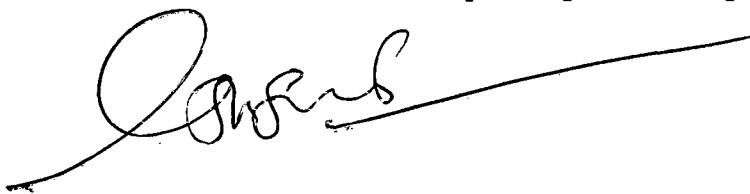
A handwritten signature in dark ink, appearing to be 'S. P. Singh', followed by a long horizontal line extending to the right.

10. It should not be understood that without corroboration the statement of Shri Dalela could not be believed. What we wish to state is that when the Enquiry Authority disbelieved the evidence of Shri Dalela on the ground that the other witnesses did not support the occurrence and the Disciplinary Authority has not stated in its order that the statement of Shri Dalela is trust worthy, no finding of guilt could be recorded on the basis of the evidence produced in the enquiry.

11. The Disciplinary Authority could state that the evidence of Shri Dalela was trust worthy. There could not be any objection in holding the applicant guilty on the basis of the statement of Shri Dalela alone. However, a reading of the notice Annexure A-10 dated 16.03.2000, shows that the Disciplinary Authority nowhere stated that it had considered the statement of Shri Dalela as trust worthy. It is significant to point out that in the order Annexure A-1 dated 05.05.2000, also the Disciplinary Authority did not state that the charge was proved by the statement of Shri Dalela.

12. The fact remains that according to the Inquiring Authority the statement of Shri Dalela was not believable and the Disciplinary Authority has not observed that the statement of Shri Dalela was worth reliance. It has, therefore, to be accepted that there was no evidence before the Disciplinary Authority to hold that the charge framed against the applicant was established.

13. What was stated by the Disciplinary Authority in the notice Annexure A-10 was that the facts which have appeared in the statement of Shri Ram Kumar Verma indicated that some incident had taken place. The fact noticed by the Disciplinary Authority was that Shri Ram Kumar Verma had heard Shri Dalela saying "Idia I will see you". On the basis of this statement, the Disciplinary Authority inferred that some occurrence



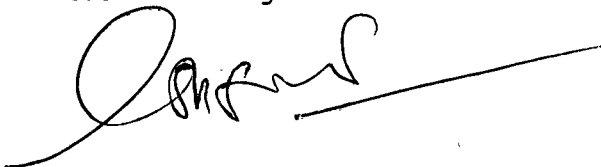
had taken place without which Shri Dalela, who was a seasoned person, could not utter such words. Even on assuming that Shri Dalela had uttered those words, we fail to understand how the charge against the applicant, that he had manhandled and beaten Shri Dalela, was established. The words spoken by Ram Kumar Verma do not indicate that Idia had committed misconduct. The words were spoken by Shri Dalela. In our opinion there is nothing in the statement of Shri R. K. Verma on which the misconduct alleged against the applicant could be held to have been established.

14. In the notice Annexure A-10 it was further stated that the report dated 14.01.1995 was sufficient to prove the charge against the applicant.

The report dated 14.01.1995 is Annexure A-4 on record. It is the report sent by Shri S. P. Singh, C.P.W.I.(North) Kota to the Assistant Engineer wherein it was stated that on getting information about the misbehaviour against Shri Sanjay Dalela he enquired from Ram Kumar Verma, Mangi Lal and Durga Singh, and he was satisfied that the incident had taken place in which the applicant gave beatings to Shri Sanjay Dalela.

We have already seen that Mangi Lal and Durga Singh alleged eye witnesses have not stated to have seen any occurrence of beating or manhandling. Ram Kumar Verma has also not stated that he had seen occurrence of beating or manhandling. In our opinion, on the basis of the report Annexure A-4 which was not submitted by Shri Dalela, it could not be found/established that the occurrence alleged in the charge sheet had taken place.

15. Having considered the entire material on record, we are of the





view that it was a case of no evidence and the Disciplinary Authority has erred in holding the applicant guilty of the charge.

16. The Appellate Authority and the Revisional Authority have not properly considered the matter and have erred in upholding the order of the Disciplinary Authority.

17. For the foregoing reasons it has become necessary for us to interfere in the orders impugned. While allowing this application we quash the orders Annexure A-1, A-2 and A-3.

18. No order as to costs.


(A. P. NASRATH)
MEMBER (A)


(G. L. GUPTA)
VICE CHAIRMAN

JSV