

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.378/2001

Date of order: 5.4.2000

Hetram, S/o Sh.Mohan Singh, employed as Gangman, C/o

Asstt.Engineer, Bharatpur, W.Rly, Kota Divn, Kota.

...Applicant.

Vs.

1. Union of India through General Manager, W.Rly, Churchgate, Mumbai.
2. Divisional Engineer (Central) W.Rly, Kota Division, Kota.
3. Asstt.Engineer, Western Rly, Bharatpur, Kota Divn.

...Respondents.

Mr.Shiv Kumar : Counsel for applicant

Mr.S.S.Hasan : Counsel for respondents.

CORAM:

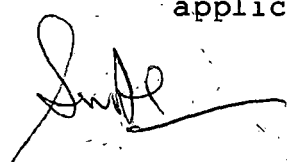
Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.H.O.Gupta, Administrative Member.

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

The relief sought in this O.A is to quash the charge sheet dated 5.1.2000, imposing minor penalty and the impugned order dated 21.3.2000 imposing the punishment upon the applicant on the ground that respondent No.3 himself has acted as a prosecutor/witness and disciplinary authority and the impugned order dated 21.3.2000 is nonspeaking order. It is also stated that the punishment imposed upon the applicant is disproportionate to the gravity of the charge. The applicant preferred an appeal on 25.4.2000 but no reply has been given. Therefore, the applicant filed this O.A for the relief as above.

2. Reply was filed. In the reply, it is stated that the applicant has already filed an appeal under Rule 18 of the

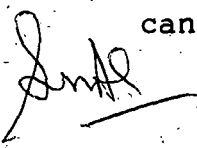


Railway Servants (Discipline & Appeal) Rules, 1968 against the order dated 21.3.2000 before the Divisional Engineer, Western Rly, Kota, challenging the order of punishment and the appeal is still pending. Therefore, the O.A filed by the applicant is not maintainable under Sec.20 of the ATs Act, 1985. It is stated that at the time of surprise checking on 22.12.99 and 23.12.99, in the night, the applicant was found sleeping on duty and when he was asked to explain the reasons, he explained the reason as stomach trouble for which he submitted a private Doctor's certificate, which is stated to be an after thought. After considering the explanation submitted by the applicant, the order dated 21.3.2000 was passed, which is as per rules and there is no illegality in issuing such order. Therefore, the applicant has no case.


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

4. Admittedly, respondent No.3 has been a witness and disciplinary authority in this case, therefore the order imposing punishment upon the applicant dated 21.3.2000 is wholly illegal and not sustainable in law.

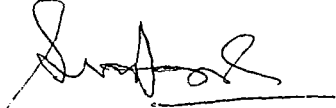
5. As regards maintainability of this O.A, it is clear from the averment of the parties that the applicant filed an appeal against the order passed by the disciplinary authority dated 21.3.2000 on 25.4.2000 to which no reply has been given to the applicant. As per rules, it is clear that if nothing has been communicated to the applicant regarding his appeal after six months, the appeal filed by the applicant deemed to have been dismissed. Therefore, in view of the rules/law on the subject, the O.A filed by the applicant cannot be said to be not maintainable.



6. In view of above all, we quash the charge sheet dated 5.1.2000 (Annx.A1) and the impugned order dated 21.3.2000 (Annx.A2). No order as to costs.


(H.O.Gupta)

Member (A)


(S.K.Agarwal)

Member (J).