

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 419/2001

DATE OF ORDER : 9.1.2004

Brij Mohan son of Late Mangilal aged about 41 years, resident of Kanwari Lal Chabdhari Badi, Badi Karbala, Lad Pura, Kota, last employed on the post of S & T Khallasi, in the office of CTCI Control, Kota, Western Railway.

.... Applicant

VERSUS

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Signal and Telecommunication Engineer, Kota Division, Kota, Western Railway.
3. Sr. Divisional Signal and Tele Communication Engineer, Kota Division, Kota, Western Railway.
4. Additional Divisional Railway Manager, Kota Division, Kota, Western Railway.

.... Respondents

Mr. C.B. Sharma, Counsel for the applicant.

Mr. Tej Prakash Sharma, Counsel for the respondents.

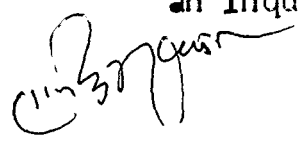
CORAM:

Hon'ble Mr. R.K. Upadhyaya, Member (Administrative)

Hon'ble Mr. Bharat Bhushan, Member (Judicial)

ORDER (ORAL)

This application u/s 19 of the Central Administrative Tribunal's Act, 1985 has been filed, seeking setting aside the orders of punishment as well as orders of Appellate Authority and Revisionary Authority in pursuance to issue of charge-sheet dated 20.2.1998 (Annexure A/1). As per this charge-sheet, the applicant was found guilty of mis-conduct being un-authorisedly absent from duty from 17.2.1997 to 13.11.1997. The applicant neither gave intimation nor produced Medical Certificate of Authorised Railway Doctor. Pursuant to the issue of charge-sheet, an Inquiry Officer was appointed. A copy of the Inquiry Report



as well as <sup>dissent</sup> ~~Decent~~ Note has been issued to the applicant by the Disciplinary Authority as per letter dated 30.12.1999 (Annexure A/5). The so-called ~~Decent~~ Note issued by the Disciplinary Authority is very cryptic, <sup>to why the</sup> it does not contain the reasons as Disciplinary Authority dis-agreed with the findings of the Inquiry Officer. The Inquiry Officer by his report dated 1.12.1999 had held that the mis-conduct as per the charge-sheet was not proved. The Disciplinary Authority did not give any reason in the ~~Decent~~ Note as to why he dis-agreed with the findings of the Inquiry Officer. The order of the Disciplinary Authority is also very cryptic as he has removed the applicant from service on the basis of the charge-sheet issued by the Department. The only reason given by the Disciplinary Authority in the order dated 15.5.2000 is that the applicant was absent unauthorisedly and did not take steps to regularise the leave. The Appellate Authority as well as Revisionary Authority also having found no merit in this case ~~and~~ upheld the order of the Disciplinary Authority.

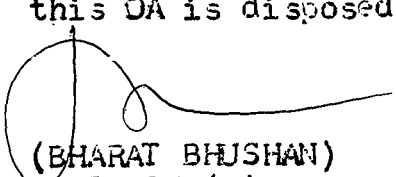
2. The respondents have opposed the present OA and have filed reply in which it has been stated that the applicant ~~was~~ wilfully absented from duty w.e.f. 17.2.1997 to 13.11.1997. The Disciplinary Authority did not agree with the findings of the Inquiry Officer and, therefore, he considered the facts of the case and imposed the penalty. The learned counsel for the applicant stated that the applicant was habitual ~~employee~~ of remaining absent frequently.

3. After hearing the learned counsel for the parties and after perusal of the records of the case, we are of the view that the order of the Disciplinary Authority and orders of the Appellate Authority and Revisionary Authority cannot be sustained for the simple reason that none of them are speaking order. In this case, the Inquiry Officer had given a finding that the charges as per

*Cr. J. J. J.*

charge sheet were not proved. The Disciplinary Authority was duty bound to give the reasons in the <sup>a Disagreement</sup> ~~Report~~ Note. This has been so held by the Hon'ble Supreme Court in the case of Punjab National Bank & Others vs. Kunj Behari Mishra, 1998 SOC (L&S) 1783. We find that the Disciplinary Authority had given a notice while forwarding the report to the Inquiry Officer but the ~~Report~~ Note is <sup>in</sup> such a cryptic form that nothing can be made out of it. In our opinion, the Disciplinary Authority should have given the reasons as to why he did not agree with report of the Inquiry Officer. Therefore, we quash and set aside the orders of the Disciplinary Authority as well as the orders of the Appellate and Disciplinary Authority in this case. We further direct the Disciplinary Authority to give a fresh <sup>Disagreement</sup> ~~Report~~ Note containing the reasons. If such reasons are communicated to the applicant, he may be allowed opportunity to rebut the same. If considered necessary, the Disciplinary Authority may also give an opportunity ~~to~~ of personal hearing. We may observe that the Appellate Authority has also taken in to account the past conduct of the applicant, <sup>which</sup> ~~it~~ was not innumera<sup>ted</sup>/mention in the charge sheet. Therefore, the respondents may confine themselves to the mis-conduct as mentioned in the charge-sheet only. It is further desirable that the Disciplinary <sup>Proceedings</sup> ~~Authority~~ in this case are finalised without loss of time preferably within six months. The reinstatement and consequential benefits to the applicant may be considered after conclusion of the ~~inquiry~~ <sup>proceedings pursuant to issue of a</sup> charge sheet.

4. In View of our directions in the preceding paragraphs, this OA is disposed without any order as to costs.

  
(BHARAT BHUSHAN)  
MEMBER (J)

  
(R.K. UPADHYAYA)  
MEMBER (A)