

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 24.12.2002

OA No.236/02.

Ganeshi Lal s/o late Shri Girdhari Lal r/o 216/32, Jawahar Colony, Jadugar, Ajmer at present employed on the post of Office Supdt. in the office of Asstt. Engineer (Hqrs.), Ajmer, Western Railway.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Senior Divisional Medical Officer (H/FW), Ajmer Division, Ajmer Western Railway.
3. Chief Medical Superintendent, Ajmer Division, Ajmer Western Railway.

.. Respondents

Mr.C.B.Sharma - counsel for the applicant

Mr. T.P.Sharma - counsel for the respondents

CORAM:

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

Hon'ble Mr. M.L.Chauhan, Member (Judicial)

O R D E R

Per Hon'ble Mr. H.O.Gupta, Member (Administrative)

The applicant is aggrieved of the order of the Disciplinary Authority dated 17/21.3.98 (Ann.A2) whereby a penalty of withholding of two increments without cumulative effect has been imposed and also the order of the Appellate Authority dated 25.2.02 (Ann.A1) whereby his appeal has been rejected. In relief, he has prayed for quashing the said orders as well as the chargesheet dated

8

25.10.97, (Ann.A3).

2. The case of the applicant as made out, in brief, is that:-

2.1 He was chargesheeted vide memo dated 25.10.97 (Ann.A3) alleging lack of devotion to duty and also for failing to make arrangements for smooth and efficient working by the staff under his control. Based on his reply dated 5.11.98 (Ann.A5), the Disciplinary Authority vide order dated 17/21.3.98 imposed a penalty of withholding of two increments without cumulative effect.

2.2 He represented vide his letter dated 15.11.98 (Ann.A5) stating that the penalty of withholding of increments have been imposed, but no such punishment order has been made available to him. Thereafter he approached the Hon'ble Tribunal, by filing OA No.542/99 and 7/2002. OA No.542/99 was disposed of with the observation that the disciplinary proceedings have been concluded, so the OA has become infructuous and in OA No.7/02 this Hon'ble Tribunal directed the Appellate Authority to decide the appeal of the applicant as per the directions of the Tribunal. As per the directions of the Tribunal, an appeal was filed but the Appellate Authority rejected the appeal vide order dated 25.2.02 (Ann.A1).

3. The main grounds taken by the applicant are that:

3.1 The applicant has not committed any misconduct. The chargesheet does not state for any carelessness and negligence in the official duties specifically, is ex-facie illegal.

3.2 He submitted reply to the chargesheet but it appears that the same has not been taken into consideration on the pretext that only a copy has been sent to the second respondent.

3.3 The penalty has been imposed without taking into account his defence. The penalty imposed is grossly disproportionate to the misconduct.

3.4 The Appellate Authority did not consider the fact that the allegation against him are baseless and without any supporting document as the applicant never called for the lapses by way of explanation which is the basic requirement prior to issuance of charge memo for minor penalty.

3.5 No loss took place to the department and the applicant has been punished without any proper reason. The punishment order is itself not as per the provisions of Railway Rules of 1968 which provides specific date and stage of pay from which punishment order came into force.

4. The respondents have contested this application and, inter alia submitted that -

4.1 The Appellate Authority has considered the appeal of the applicant and the same was disposed of by a speaking order. The applicant was found responsible for carelessness, negligence and disobedience as per the allegation made in the chargesheet.

4.2 The applicant did not submit his defence within the stipulated time. The applicant has submitted his defence against the chargesheet which is not addressed to the Disciplinary Authority but it is addressed to the Appellate Authority. However, the Disciplinary Authority

has considered the defence before imposition of penalty. The applicant has committed misconduct while working as Office Superintendent. The penalty imposed is only a minor penalty and is not grossly disproportionate to the charges.

4.3 The punishment order is as per the provisions of the Railway Servants (Discipline and Appeal) Rules, 1968. The respondents have also quoted the following three judgments in support of their contention:-

1. BP Verma v. Union of India, 1996 (34) ATC 283 (CAT/JP),

2. Union of India vs. B.K. Shrivastava, 1998- (1) ATJ 166

3. Apparal Export Promotion Council v. A.K. Chopra, 1999 (2) ATJ 227.

5. No rejoinder has been filed by the applicant.

6. Heard the learned counsel for the parties and perused the record.

6.1 The applicant was issued a minor penalty chargesheet alleging carelessness and negligence in performing the official duty and also for disobedience. It has been alleged that the applicant was instructed verbally to release the security deposits of the Contractor but he failed to do so even after the reasonable time. The applicant in his representation against the chargesheet has himself submitted that the security deposit was not returned because of non-cooperation of the Contractor as well as for burden of work. The applicant has nowhere refuted the allegation of

disobedience of orders. It was stated in the chargesheet that in spite of verbal instructions to release the security deposit, he failed to do so. Apart from the allegation of disobedience, the charge also included allegation for carelessness and negligence in performing the duty. The applicant fairly conceded this portion of charge. The penalty imposed is a minor penalty and is applicable only when the increments become due. The order of the Appellate Authority in compliance to the order of the Tribunal cannot be said to be a non-speaking order. In the circumstances, we are of the view that no judicial interference is call for in this case and accordingly, this OA is dismissed without any order as to costs.



(M.L.CHAUHAN)

Member (J)



(H.O.GUPTA)

Member (A)