

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 05.01.2004

Original Application No.244/2002.

Sudhir Bhatnagar S/o Late Shri J. N. Bhatnagar, aged about 43 years, presently as Senior Clerk, Compilation Officer, Ajmer (Raj.) residing at "Aashish" Chandraverdai Nagar, Ajmer (Raj.).

... Applicant.

versus

1. Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. Additional General manager, Western Railway, Church Gate, Mumbai.
3. F.A. and C.A.O (WST), Church Gate, Mumbai.
4. Statistics & Analysis Officer, Western Railway, Ajmer.

... Respondents.

Mr. R. D. Tripathi counsel for the applicant.
Mr. U. D. Sharma counsel for the respondents.

CORAM

Hon'ble Mr. R. K. Upadhyaya, Administrative Member.
Hon'ble Mr. Bharat Bhushan, Judicial Member.

: O R D E R :
(per Hon'ble Mr. R. K. Upadhyaya)

This application under Section 19 of the ~~Central~~ Administrative Tribunals Act, 1985, has been filed by the applicant, Shri Sudhir Bhatnagar, claiming for the following reliefs :-

"(i) to quash the impugned order dated 21.05.2001 (Annexure A/1) 10.07.2000 (Annexure A1/a) and 4.2.1999 (Annexure A/1b) and charge sheet dated 01.01.1998 (Annexure A-3) with all consequential benefits.

(ii) to direct the respondents to refix the pay and allowances of the applicant afresh and to pay the arrears immediately with interest of 24% p.a.

(iii) Any other order deemed fit and proper may be passed in favour of the applicant and cost may also be awarded in favour of the applicant.

(iv) to allow the cost of this original application."



2. It is stated by the applicant that while working as Senior Clerk he was charge sheeted with reference to "Unfortunate incidence of 19.03.1998". The charge sheet dated 01.04.1998 (Annexure A-3) levelled charges of blatantly abusing another Railway servant on duty, Smt. Maya Ratwani, Compilation Superintendent, and of assaulting her. An Enquiry Officer was appointed to investigate the charges levelled against the applicant, who submitted his report dated 06.01.1999 (Annexure A-5) concluding that the charge of assault was not proved but abusing Smt. Maya Ratwani, Compilation Superintendent in loud voice and in abusive language was proved. The Disciplinary Authority considered the facts of the case and the report of the Enquiry Officer as well as the reply of the applicant and imposed the punishment of stoppage of three future increment in the lower pay scale of Rs.3050-4590 (R.S.-R.P.) at Rs.3200/- from the pay scale of Rs.4500-7000(R.S.-R.P.). This stoppage of increment was not to affect his seniority. Aggrieved by the order of the disciplinary authority, the applicant filed an appeal dated 26.01.1999 (Annexure A-6) to the appellate authority. The appellate authority did not find any merit in the appeal and rejected the same by order dated 10.07.2000 (Annexure A1/a). The applicant filed a revision petition and the Additional General Manager vide his ^{order} letter dated 21.01.2001 (Annexure A-1) reduced the penalty as follows :-

"Taking all factors of the case into account, I find that there is some merit in your submission with regard to the severity of the punishment. I, therefore, ~~do~~ reduce the penalty to that of "Reduction to lower time scale of pay i.e. Rs.3050-4590 on pay Rs.3200/-p.m. for 3 years without future effect".

3. The claim of the applicant is that there was no such incidence as narrated in the charge sheet. Referring to the statements of witnesses before the Enquiry Officer, learned counsel for the applicant stated that none of them has stated as to what was the exact abusive language used by the applicant. Therefore, the order of punishment and consequential order in appeal and revision deserves to be quashed. It was also pointed out by the learned counsel that the applicant was given a charge sheet for his absence from 09.03.1998 to 11.03.1998. The applicant had inquired from Mrs. Maya Ratwani, Compilation

Chintan Agarwal

Superintendent, about the same. It was in routine manner that he came to inquire about it. The attempt of the learned counsel for the applicant was that the impugned charge sheet dated 01.04.1998 is based on complaint made by Smt. Maya Ratwani. This complaint is supposed to have been filed on 19.03.1998 but the witnesses during the course of their statements have admitted that some of them signed on this complaint on 20.03.1998. The whole effort of the learned counsel was that the very basis of the charge sheet does not survives. Therefore, the charge sheet and consequential proceedings should be quashed.

4. We have heard the learned counsel for the parties and have perused the material placed on record very carefully.

5. There is no dispute that the applicant had visited Smt. Maya Ratwani sometime in the afternoon on 19.03.1998. There is enough evidence to show that the applicant had used abusive language in loud voice before Smt. Maya Ratwani, Compilation Superintendent. We are not convinced that lack of reproduction of the exact abusing language of witnesses makes it a case of no evidence. As a matter of fact, the administrative authorities ~~as~~ held a preliminary enquiry on 20.03.1998. The statements of the witnesses recorded in the preliminary enquiry was shown to the applicant during the regular enquiry by the Enquiry Officer. The applicant was also asked to cross examine them. Some of the witnesses stated that the abusive language was so bad that it could not be reproduced. One of the Witness Shri R.D. Mourya in the preliminary enquiry on 20.03.1998 had even reproduced a part of the abusive language used by the applicant. In this preliminary statement he had written that the applicant asked Smt. Maya Ratwani, Compilation Superintendent, whether others ~~as~~ ^{as her} were related to her/father (DUDDERE TUMHARE BAAP LAGTE HAIN KYA). When confronted in the regular enquiry in the presence of the applicant, Shri R. D. Mourya had admitted the facts as mentioned in the statement. Even in the cross examination on behalf of the applicant there was no denial of the statement. Even if we consider ~~these~~ facts, the other objectionable abuses ~~were~~ not reproduced by the witnesses during examination/cross examination ~~do~~ ^{change the decision} not materially at all. As a matter of fact, the scope of judicial review by this Tribunal is limited to the enquiry as to whether there is any evidence at all. On the face of material

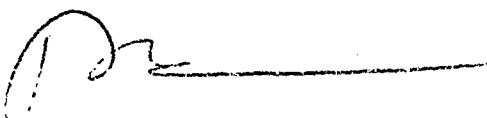
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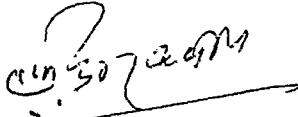
available on record, in this case, we are of the view that there is some evidence to prove the charge of abusing Smt. Maya Ratwani, Compilation Superintendent, by the applicant. Therefore, it cannot be said that the case of punishment is based on no evidence. Sufficiently or otherwise ^{or of evidence} cannot be enquired into by this Tribunal. Considering these aspects of the case, we do not find any merit in the ^{submissions} ~~statement~~ made by the learned counsel for the applicant.

6. We do not find that the complaint filed by Smt. Maya Ratwani is relevant to the punishment imposed upon the applicant. There is no dispute that the incident occurred on 19.03.1998. In support of the alleged charges there is some evidence. Whether the complaint was filed on 19.03.1998 or 20.03.1998 or if some of the witnesses have signed on this complaint on 20.03.1998 is totally irrelevant for a decision about the penalty under consideration. Even then, it has to be observed that the said complaint of Smt. Maya Ratwani, Compilation Superintendent, addressed to the Statistics and Analysis Officer has been marked by Senior Accounts Officer as well as ASO on 19.03.1998. So we cannot say that everybody has signed only afterwards. As a matter of fact, the ASO has already made a remark on the top of this complaint that the same should be enquired and report should be submitted. It may be that some of the 35 persons who have signed this complaint in support of the incident might have signed it subsequently. But that does not mean ^{that} no incident as per charge sheet took place on 19.03.1998. Therefore, the arguments advanced by the learned counsel for the applicant regarding the complaint having no relevance stands rejected.

7. We also find that the disciplinary proceedings are initiated to maintain discipline in the office. If the applicant was found guilty of mis-conduct, he has rightly been punished. Even the punishment imposed does not appear to be excessive or arbitrary. The appellate authority as well as the revisionary authority have already considered this aspect also.

8. For the reasons mentioned in the preceding paragraphs, this OA is dismissed without any order as to costs.


(BHARAT BHUSHAN)
MEMBER (J)


(R. K. UPADHYAYA)
MEMBER (A)