

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Jaipur, this the ~~14~~ day of March, 2005.

OA No.36/2003.

CORAM : HON'BLE SHRI V. K. MAJOTRA, VICE CHAIRMAN.
HON'BLE SHRI M. L. CHAUHAN, JUDICIAL MEMBER.

Sunil Kumar
S/o Shri Durga Prasad Ji,
Aged about 38 years,
R/o H. NO.215 T,
near Railway Cooperative Store,
Railway Colony,
Gangapur City.

...Applicant.

By Advocate : Shri Vinod Goyal proxy counsel for
Shri Virendra Lodha.

Vs.

- 1.Union of India through
General Manager
Western Railway,
Church Gate,
Mumbai.
- 2.Divisional Railway Manager,
Western Railway,
Kota.
- 3.Sr. Divisional Engineer,
Western Railway,
Kota Division,
Kota.
- 4.Assistant Engineer,
Western Railway,
Kota Division,
Gangapur City,
Distt. Sawai Madhopur.

... Respondents.

By Advocate : Shri Anupam Agarwal.

:ORDER :

By V. K. Majotra, Vice Chairman.

Applicant has challenged penalty of removal from
service in disciplinary proceedings against him. Applicant

had been charged for committing forgery and fraud. In criminal proceedings against him under Sections 419, 420, 467 & 468 of Indian Penal Code, applicant was held guilty and was convicted and awarded "the sentence of six months R.I. under Section 419 I.P.C., under Sec. 420 I.P.C. to one year's R.I. and to pay a fine of Rs.500/- under sec.467 IPC to two years R.I. and to pay a fine of Rs.100/- and under Section 468 I.P.C. to one year R.I. and to pay fine Rs.500/-, in default of payment of fine he was further awarded sentences of imprisonment" as mentioned in the judgment of the trial Magistrate. In the criminal revision petition against the aforesaid sentence, the Hon'ble High Court of Rajasthan maintained the conviction but reduced the sentence of punishment to that already undergone by him which is stated to be 35 days judicial custody.

2. Learned Counsel for the applicant contended that on the basis of conviction in criminal proceedings the respondents have imposed punishment of removal from service upon the applicant which is entirely disproportionate to the gravity of the charge levelled against him and as such a minor penalty may be imposed upon the applicant instead the extant penalty.

3. On the other hand, Learned Counsel for the respondents contended that the Hon'ble High Court had not set aside the conviction against the applicant in criminal proceedings, only the period of judicial custody undergone by the applicant was treated as sufficient. Learned Counsel stated that applicant had been convicted for the act of forgery and cheating, which being an act of moral turpitude, the employer has lost faith in the employee and as such his dis-continuance in service is just and proper. The punishment imposed upon the applicant learned counsel

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maintained, is commensurate with the gravity of the charge against the applicant, which was found to be proved in the criminal proceedings against the applicant.

4. Admittedly, the conviction in criminal proceedings ^{was by} ~~were~~ upheld even at the level of the High Court. On the basis of this conviction for the charge of forgery and cheating, which is an act of moral turpitude, applicant has been imposed penalty of removal from service under Rule 14 of the Railway (Discipline & Appeal) Rules.

5. Quantum of punishment basically lies in the discretion of the Disciplinary Authority. Principle of proportionality can be invoked regarding punishment only in a case where punishment is totally irrational in the sense that it is in outrageous defiance of logic and moral standards. It was held in the case of District Judge, Bahraich & Anr. v. Munijar Prasad JT 2001 (8) SC 643 as follows :-

"... The applicability of the doctrine of proportionality as demonstrated in Union of India and Anr. V. G. Ganayutham (JT 1997 (7) SC 572) 1998 (2) SLJ 102 (SC) appears to have been completely lost sight of by him. As held in Om Kumar v. Union of India (JT 2001 (Suppl 3) SC 92), in exercise of judicial review jurisdiction, High Court cannot interfere with quantum of punishment in the field of administrative law unless it is satisfied that Wednesbury Principles are violated, in which case the High court shall ordinarily remit the matter to authority competent to order punishment in UPSRTC v. Subhash Chandra Sharma (JT 2000 (3) SC 184) punishment of removal awarded after proof of charges was held not liable to be interfered with unless it was "shockingly disproportionate". No such finding was arrived at either by learned single judge or by division bench."

6. In the present case, charges were of grave nature and were proved in the criminal proceedings against the applicant; these involved moral turpitude. Respondents had followed the prescribed procedure for proceeding against

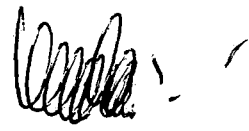
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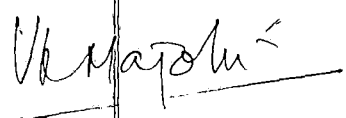
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the applicant in disciplinary proceedings and imposing the challenged penalty of removal from service.

7. We do not find the punishment as totally irrational or outrageous defiance of logic and moral standards. The punishment, in our considered view, is not shockingly disproportionate. In this view of the matter, the punishment is not liable to be interfered with. As such, the OA is dismissed being devoid of any merit.

8. No costs.


(M. L. CHAUHAN)
MEMBER (J)


(V. K. MAJOTRA)
VICE CHAIRMAN

2.3.05