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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT AT INDORE

Original Application No. 628 of 1999

Indore, this the 11th day of November, 2003

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Babulal, S/o. late Shri Harilal,
aged 39 years, Ex-First Fireman,
Loco Neemuch, r/o Patheri Mohalla,
Baghara, Neemuch.

... Applicant

(By Advocate - Shri K.C. Raikwar)

V e r s u s

1. Union of India, through
Chief Mechanical Engineer,
Western Railway, Churchgate,
Mumbai.

2. Divisional Rail Manager,
Western Railway, Do Batti
Chourah, Ratlam.

3. Senior Divisional Mechanical
Engineer, Western Railway,
Do Batti Chourah, Ratlam.

... Respondent

(By Advocate - Shri Y.I. Mehta, Sr. Advocate assisted by
Shri H.Y. Mehta)

O R D E R (Oral)

By G. Shanthappa, Judicial Member -

The above Original Application is filed seeking the relief to quash the order imposing punishment of removal service and orders of appeal and also the orders of revision which are illegal. He has also requested that he is entitled for reinstatement and backwages with interest.

2. The case of the applicant is that he was working as Cleaner in Loco Shed and he was promoted as 2nd Fireman and subsequently as 1st Fireman. While he was in service, he was charged with an offence that he was intoxicated. Against this FIR was lodged against him in the Police Station. There was also a criminal case ^{initiated} investigated before

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the JMFC, Neemuch in Cr. Case No. 2166/96 and he was acquitted in the said case.

3. The respondents have initiated the departmental proceedings against the applicant as per the charge memo. The applicant had attended the enquiry proceedings and he has admitted the guilt and he has also requested for exonerating him by submitting an apology. The applicant submitted his objection to the enquiry report in which he has not taken any grounds regarding violation of principles of natural justice and also the allegation that he had signed the blank papers ~~where~~ ^{when} the enquiry officer had recorded his statements. The disciplinary authority has passed the order for imposing the punishment of removal from service. Against which the applicant has preferred an appeal as per Annexure A-14. The appellate authority has passed a cryptic order and rejected the appeal of the applicant. The said order of the appellate authority is ~~is~~ ^{Annexure A-3} and is not a speaking order nor any reason has been assigned for its rejection. Hence the impugned order is not sustainable in the eye of law and is liable to be quashed. The applicant had also filed a revision before the revisional authority vide the revision petition at Annexure A-15. The revisional authority has also passed the order as per Annexure A-4 dated 18.11.98. The revisional authority has also not considered the case of the applicant and the said authority has rejected the revision petition confirming the punishment imposed by the disciplinary authority. The said order of the revisional authority is not a speaking order and no reasons has been assigned for its rejection. Hence the said order is also liable to be quashed.

4. Per contra the respondents have filed the reply stating

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that the averments and allegations made in the application against the respondents are denied and the applicant has admitted his guilt, the enquiry officer, the disciplinary authority, the appellate authority and the revisional authority have properly considered the case of the applicant and confirmed the punishment imposed by the disciplinary authority. The respondents have supported the action of the authorities and they have requested for rejection of the Original Application.

5. Subsequent to filing of the reply the applicant has filed the rejoinder to the reply. He has taken the contenti that the witness examined by the enquiry officer, Shri S. M. Ali was not allowed to be crossexamined by the applicant. Hence it violates the principles of natural justice and the punishment imposed by the authorities should be quashed.

6. After hearing the learned advocate for the applicant and the learned advocate for the respondents, after perusal of the pleadings and the documents on the record, we have taken the case for final hearing and considered the entire facts on records.

7. The short question for disposal of the above applicati is that whether the appellate authority and the revisional authority have passed the considered, detailed and speaking order by following the principles of law ^{Rule} 3. After perusal of the appeal memo as per Annexure A-14, we find that the respondents have passed the order Annexure A-3 which is a three line order. Though the applicant has admitted the guilt the appellate authority ^{has not} ~~should~~ consider the averments and the allegations made in the appeal memo. Hence the impugned order passed by the appellate authority as per Annexure A-3

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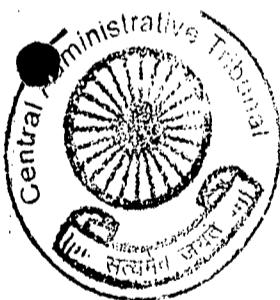
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is not sustainable in the eye of law and the same is liable to be quashed. The revisional authority has also not considered the contents and averments made in the revision petition dated 30.05.1998. The revisional authority has passed the order Annexure A-4 dated 18.11.1998 is also not sustainable in the eye of law. The revisional authority has also not considered the entire case on merit/without assigning the reasons the said authority has passed a cryptic order.

8. After considering the arguments, we are of the opinion that the impugned orders at Annexure A-3 is not sustainable in the eye of law. We accordingly quash it. Though the applicant has not challenged the order Annexure A-4, only to mould the relief of the applicant, we/quash the impugned order of the revisional authority at Annexure A-4. We direct the appellate authority to pass a considered and detailed order assigning the reasons to come to the conclusion that whether the principles of natural justice are violated while conducting the departmental enquiry and also the imposition of the penalty by the disciplinary authority. The matter is remanded to the appellate authority to consider afresh and pass appropriate and considered order within a period of 3 months from the date of receipt of this order. The Original Application is allowed in part. No order as to costs.



SJL
(C. Shanthappa)
Judicial Member

SJL
(M.P. Singh)
Vice Chairman

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