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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING INDORE

Original Application No. 642 of 2005

Jabalpur this the 20th of July, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble, Mr. A.K. Gaur, Judicial Member

Mukesh S/o Natthusingh
Age 38 years, Occupation : Nil
(Ex Track Man)
R/o 99, Road No.4, Nandia Nagar,
Nr. Chhoti Khajrani, Indore (M.P.)

Applicant

(By Advocate – Shri Umesh Gajankush)

Versus

1. Union of India,
Through – General Manager
Western Railway, Mumbai
2. Divisional Manager
Western Railway, Ratlam
3. Assistant Engineer
Western Railway, Mhow,
Distt. Indore (M.P.)

Respondents

(By Advocate – Shri Y.I. Mehta Sr.Adv.
alongwith Smt. S.H.Mehta)

ORDER

By A.K. Gaur, Judicial Member :-

The applicant has challenged the order dated 21.3.2001 (Annexure-A-2) passed by the respondent No.2, Appellate authority's order dated 14.8.2002 (Annexure-A-4) and the revisional authority's order dated 31.5.2005 (Annexure-A-5) by which the respondents have dismissed the applicant from service.

2. It is submitted on behalf of the applicant that while he was working under the control of respondents on the post of Trackman, a charge sheet was issued to him on 17.7.2001 (Annexure-A-1) on the ground of absence from duty w.e.f. 6.6.2000 to 29.5.2001. It has also

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been contended on behalf of the applicant that without considering the representation of the applicant and without holding proper enquiry the respondent No.3 has passed the order dated 23.1.2002, dismissing the applicant from service with immediate effect. In the present OA, it has specifically been mentioned that the charge sheet was issued for the period of 6.6.2000 to 29.5.2001, but in the impugned order dated 23.1.2002 the period of absence shown by the respondent No.3 does not tally with the period stated in the charge sheet and as such the order of dismissal is without jurisdiction and liable to be set aside. The Appeal preferred by the applicant on 7.3.2002 was dismissed by the appellate authority vide order dated 14.8.2002. The revision filed by the applicant was also dismissed by the revisional authority vide order dated 31.5.2005.

3. The main contention raised on behalf of the applicant is that the impugned orders passed by the authorities are illegal, arbitrary and in violation of principles of natural justice. The learned counsel for the applicant has argued that the period given in the charge sheet with regard to the absence w.e.f. 6.6.2000 to 29.5.2001 does not tally with the impugned order and no such period has been given in the charge sheet. According to the learned counsel for the applicant, the order of dismissal is therefore, illegal and liable to be set aside.

4. The respondents have filed a detailed counter reply and denied the averments contained in the Original Application filed by the applicant. It has been contended on behalf of the respondents that the OA is not maintainable as the applicant has failed to implead the appellate and revisional authorities as respondents in this case. It is also urged that the charge against the applicant was that he remained unauthorisedly absent from duty w.e.f. 6.6.2000 to 29.5.2001 and this fact has been admitted by the applicant before the enquiry officer. The relevant question and answer before the enquiry officer is being reproduced hereunder :-

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“Question No.(3) – You have been charge sheeted for being unauthorized absent for the period of 6.6.2000 to 29.5.2001, what you have to say in this regard ?

Ans. Yes I was absent.”

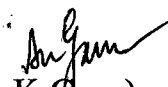
The copy of the deposition of the applicant before the inquiry officer has also been filed as Annexure-R-2. In paragraph 3 of the reply, it has been mentioned that the report of inquiry officer was supplied to the applicant. He was given full opportunity to defend his case and the enquiry was properly held. Since, the applicant has admitted the charges, no fault could be found out from the order passed by the enquiry officer. The respondents have also clearly mentioned in their reply that the order passed by the appellate authority is an order of affirmance, based on cogent reasons and called for no interference.

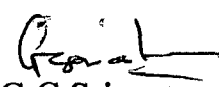
5. Having heard the counsel for the parties at length, we are of the considered view that since the applicant has himself admitted the charge before the inquiry officer that he remained unauthorized absent for a period of 6.6.2000 to 29.5.2001, there was hardly any occasion for the Disciplinary authority to consider other evidence. It is settled principle of law that the admission is the best evidence and this view of law gets support from the Supreme Court decision rendered in JT 1997 (1) SC 535 – Sita Ram Charya Vs. G. R. Charya. Learned counsel for the respondents has also argued that the OA is liable to be dismissed as the Appellate authority and the Revisional authority have not been impleaded as respondents. In this regard, we may observe that the appellate authority and the revisional authority need not to be impleaded as respondents, unless there are specific allegations of malafide against them. In the instant case, no such malafide has been alleged either against the Appellate authority or Revisional authority and as such they are not at all necessary parties. The learned counsel for the applicant has argued that the appellate authority has not recorded reasons in support of its conclusion and the grounds taken by the applicant has not at all been discussed by the Appellate authority.

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6. We have carefully seen the order of the Appellate authority and we are of the considered opinion that the order passed by the Appellate authority is an order of affirmance and as such the same does not call for any interference by us. In view of the decision of Hon'ble Supreme Court in the case of State Bank of India, Bhopal Vs. S.S. Koshal reported in 1994 SCC (L&S) 1019, the order of affirmance passed by the appellate authority does not require any reasoning. Learned counsel for the applicant has miserably failed to indicate any ground, which may force us to interfere with the order passed by the disciplinary authority. The Hon'ble Supreme Court in the case of High Court of Judicature at Bombay, through its Registrar Vs. S.S. Patil and Another reported in 2000(1) SCC 416 and Bank of India Vs. Degla Suryanama reported in JT 1999 Vol. 4 SC 489 has clearly observed that "well considered order of the disciplinary authority is not liable to be interfered with, if there is some evidence." No other ground has been raised on behalf of the applicant in order to challenge the order passed by the disciplinary authority, Appellate authority and Revisional authority.

7. In view of the our aforesaid observations, the OA is liable to be dismissed. Accordingly, the same is dismissed. No order as to costs.

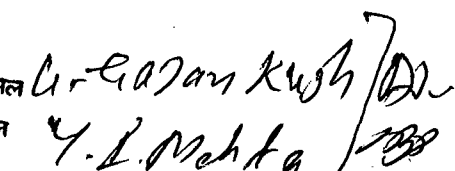

(A.K. Gaur)
Judicial Member



(Dr. G.C. Srivastava)
Vice Chairman

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पूठकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय तार एसोसिएशन, जबलपुर
- (2) अवेक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यक्ष श्री/श्रीमती/कु.....के काउंसल
- (4) कोर्टाल, के.प्र.अ., जबलपुर न्यायापीठ
सूचना एवं आवश्यक कार्यवाही हेतु
उप रजिस्ट्रार


Dr. G.C. Srivastava
Y. L. Mehta


25/3/06