

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,

CIRCUIT COURT SITTING AT GWALIOR

Original Application No. 29 of 2005

Gwalior, this the 18th day of May, 2006

**Hon'ble Shri Justice B.Panigrahi- Chairman
Hon'ble Dr. G.C. Srivastava- Vice Chairman**

Munnalal Tripathi, S/o Shri Devidutt Tripathi,
aged 54 years, Occupation-Retired, r/o
H.No.77, Jyoti Nagar, Thatipur, Gandhi Road,
Gwalior.

-Applicant

(Applicant in person)

V e r s u s

The Union of India Through its

1. General Manager, Railway, North
-Eastern Railway, Allahabad, U.P.
2. The Chief Commercial Manager
(catg) the revising authority.
3. A.D.R.M.II (A/A), C.R.Jhansi.
4. S.R.D.C.M. Jhansi.

-Respondents

(By Advocate – Shri S.K.Jain)

O R D E R(Oral)

By Justice B.Panigrahi, Chairman.-

The applicant is challenging the validity, propriety and legality of the orders passed by the respondent-authorities whereby the applicant was compulsorily retired from service.

2. The brief facts leading to the filing of this case are as follows:-

The applicant was holding the post of Head Parcel Clerk (for short 'HPC') in the office of the respondents vide order dated 29.3.2000. He was placed under suspension while acting as HPC. It is alleged in the application that on 02-09-1999 while the applicant was on duty in 9 to 17 shift, in the

receipt counter in outward parcel office, Gwalior, one unknown person came and asked for forwarding note for booking some consignment. The applicant worked out the freight as Rs.245/-. But the unknown person kept Rs.255/- (two hundred rupees notes, one fifty rupees note and one five rupees note) by offering Rs.10/- in excess. At that stage, raiding party came and seized Rs.255/- from the custody of the applicant. It is no doubt true that he has given a statement in the enquiry that he has received Rs.255/- from the consignor thereof accepting Rs.10/- more. It is further alleged that from his booking counter extra Rs.48/- were recovered from his possession. The respondents-authorities have framed the following articles of charges against the applicant:

“Article 1- He is found responsible for demanding Rs.10/- and accepting the same illegally from a consignor for booking of 2 bags containing Shoes, on and above the Railway dues.

Article 2- He is also found responsible for producing Rs.48/- excess in his Govt.cash, which he must have earned through illegal means”.

3. The matter was enquired into by the enquiry officer, who held the applicant guilty and submitted his report. The disciplinary authority agreeing with the findings of the enquiry officer, passed the order of removal from service. Being aggrieved by the order of the disciplinary authority, the applicant seems to have filed an appeal, before the appellate authority, who modified the order of ‘removal from service’ to that of ‘compulsory retirement’. The applicant further filed a revision-petition before the appropriate authority, but it has yielded no result except its dismissal. Therefore, he filed a case before this Tribunal in OA no. 407/2003, but at the time of hearing of the said OA, he sought to withdraw the same with the liberty to file a fresh case, that is how he filed this present case.

4. The respondent-authorities have submitted their counter reply whereby they have stated that the applicant had accepted Rs.10/- excess than the normal freight which has been admitted by him. It has been further stated that Rs.48/- was found extra with him which he could not explain. After going through the enquiry officer’s report as well as the findings of the

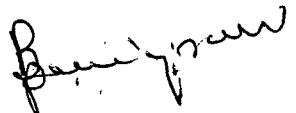
disciplinary, appellate and revisional authorities, and also the reply filed by the respondents it has been proved that the applicant has accepted Rs.10/- and also Rs.48/- was found extra with him.

5. The applicant was present in person. He stated that an unknown person came and offered him Rs.255/- (two hundred rupees notes, one fifty rupees note and one five rupees note). In a hurry he could not count the currency note by denomination and at that juncture the raiding party came and all of a sudden called upon him and collected the statement from him wherein he was forced to put his signature by admitting that Rs.10/- more was collected by him from such unknown person. He has also tried to explain that Rs.48/- extra, which was seized from his possession, was his personal amount which had got no connection with the collection of freight. We found such a defence has not been taken by the applicant at the time of filing of the written statement before the appropriate authority. The applicant, who is present in person, has fervently pleaded that he has still four more years of service and he has five family members including himself and with the meager income of pension, it is very difficult for him to make both the ends meet. He has, therefore, prayed for a compassionate attitude towards the delinquency purported to have been committed by him.

6. We are aware of the principle that neither the Courts nor the Tribunals should look into the question of proportionality of the punishment awarded by the disciplinary authority, but at the same time we noticed here that the punishment awarded to the applicant appears to be not commensurate with the alleged delinquency committed by the applicant.

7. Accordingly, we dispose of this OA by directing the respondent no.2 to consider the applicant's case sympathetically by giving a chance of personal hearing and pass appropriate orders. No costs. We may observe that this case shall not be treated as a precedent.


 (Dr. G.C. Srivastava)
 Vice Chairman
 rkv.


 (B. Panigrahi)
 Chairman