

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Applications No 1145 of 2004

Indore, this the 18th day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Govind Ram Yadav, aged about
40 years, son of late Jeevan Ram
Yadav, resident of Bhagat Singh
Ward, Bina, Tahsil and District
Sagar (M.P.)

Applicant

(By Advocate – Ku.P.L.Shrivastava)

V E R S U S

1. Union of India,
Through General Manager,
Central West Railway,
Jabalpur (M.P.)
2. Divisional Railway Manager
(Mechanical) Central Railway,
Bhopal (M.P.)
3. Divisional Mechanical Engineer,
Central Railway, Bhopal (M.P.)
4. Senior Divisional Mechanical Engineer
Central Railway, Bhopal (M.P.)

Respondents

(By Advocate – Shri S.P.Sinha)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main reliefs :-

“ (ii)to quash the impugned order of removal dated 20.11.2002 (Annexure A-10).



(iii)to quash the order of Appellate Authority dated 9.1.2003 (Annexure-A-12) and also the order of Revisional Authority dated 13.4.2004 (Annexure-A-14).

(iv)to direct the respondents to reinstate the applicant in service with full back wages and all other consequential benefits."

2. The brief facts of the case are that the applicant was initially appointed on the post of Helper. He was suspended vide order dated 24.7.2001 (Annexure-A-1) and thereafter he was issued a memorandum of charge sheet dated 22.8.2001. The applicant has submitted his reply on 5.9.2001 stating therein that for the same charge a criminal case is pending in the Indore court, therefore, the proceedings of departmental inquiry be kept in abeyance till the decision of criminal court. Despite of his submission, the respondents in a most arbitrary manner proceeded with the departmental enquiry and thereafter the applicant reiterated his request that the proceedings of departmental enquiry be kept in abeyance till the final decision of criminal court. The applicant requested that he will cooperate with the departmental proceedings only after conclusion of criminal proceedings but his request was not acceded. The enquiry has been concluded and the enquiry report Annexure-A-9 has been sent to the applicant. On receiving the enquiry report the applicant has submitted his reply on 10.10.2002 and without considering his reply the impugned order of removal from service dated 20.11.2002 has been passed by the respondents. Thereafter, the applicant submitted an appeal dated 11.12.2002 before the appellate authority which was rejected by the appellate authority vide order dated 9.1.2003 and thereafter he has preferred a revision petition before the respondent No.2 which was also rejected vide order dated 13.4.2004. Hence, this OA.

3. Heard the learned counsel for the parties and carefully perused the records.



4. The learned counsel for the applicant argued that on the same charge/incident a criminal case was pending against the applicant in the competent court at Indore, therefore, he has requested to the respondents that the departmental enquiry proceedings be kept in abeyance till the decision of the criminal case otherwise if the enquiry is concluded it shall adversely affect the decision of the criminal case. However it was not considered by the respondents and an ex-parte departmental enquiry has been conducted against the applicant. The learned counsel for the respondents has drawn our attention towards the statement of one Shri Rakesh Gotenkar recorded on 23.7.2001 by the enquiry officer in which he has stated that ART Driver and Asstt. Driver had beaten to the applicant and in response the applicant beaten to them. Hence, the act of the applicant is self defence not aggressive. The learned counsel for the applicant has further argued that the respondents have awarded very harsh punishment of removal from service on the applicant whereas the ART Driver and Asstt. Driver both are liable for the same incident. However, the respondents have not given them any punishment. Hence, the action of the respondents is not sustainable in the eyes of law.

5. In reply, the learned counsel for the respondents argued that enquiry proceedings have been conducted by the respondents in accordance with the rules and the applicant was provided all the facilities and he was also given the opportunity to nominate his defence counsel. The applicant took part in the enquiry proceedings up to 8.8.2002 when his statement was being recorded and on that day the evidence was being closed. The learned counsel for the respondents further argued that the applicant was given the enquiry report so that he can defend himself. The applicant has submitted his reply and the respondents have considered his reply and enquiry report and thereafter they passed the impugned order of punishment of removal from service on 20.11.2002. Hence, the principles of natural justice has been followed by the respondents. Thereafter the applicant



has preferred his appeal and revision petition which were also considered and dismissed. The learned counsel for the respondents further argued that the applicant was punished by the Add.Chief Judicial Magistrate Indore in Criminal Trial No. 4239/01 decided on 25.3.2003 under Section 146 of the Railway Act and he was imposed punishment of Rs.100/- and he has also accepted his guilt. The applicant has violated the Railways Rules and committed misconduct and has also beaten his superior officer in the office hours. Hence, he was rightly punished.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that on the request of the applicant, the respondents have changed the enquiry officer and appointed a new enquiry officer. Thereafter the applicant did not raise any objection. We have perused the enquiry report bywhich the charges were proved and established against the applicant. The applicant was given due opportunity of hearing and on receiving the enquiry proceedings he submitted his representation against the enquiry report. We have also perused the judgment passed by the Add.Chief Judicial Magistrate Indore in Criminal Trial No. 4239/01 decided on 25.3.2003. We find that the applicant was found guilty under Section 146 of the Railways Act and was ordered to pay fine of Rs.100/-. We further find that both the parties had compromised and the applicant admitted his guilt voluntarily. Hence, it is apparently clear that the applicant had confessed the allegations leveled against him i.e. he caused gravious injury to the ART Driver and used filthy language. The applicant has not been acquitted from the charges leveled against him on merit during the criminal trial. We also find that the charges leveled against the applicant were proved and established during the enquiry proceedings. So far as the quantum of punishment is concerned the applicant is a Group D employee and on account of him causing serious injury to a Sr. Driver of Railway and also the Intercity Express has been late by 5 hours and the Passengers of the aforesaid train had



to face inconvenience, is not harsh. The applicant has beaten his superior officer and committed misconduct while in duty and office hours.

7. Considering all the facts and circumstances of the case, we do not find any merit in this OA. Accordingly, the same is dismissed. No costs.


(Madan Mohan)
Judicial Member

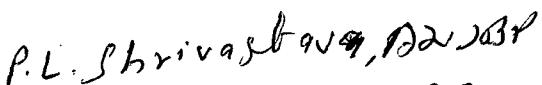

(M.P. Singh)
Vice Chairman

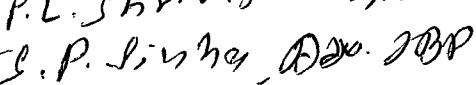
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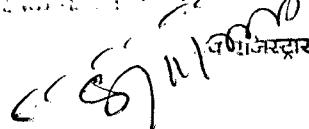
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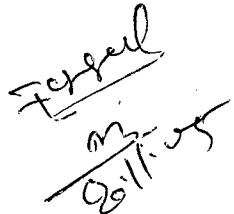
- (1) सचिव, उत्तर जनरल एवं एसीजीयोन, जललपुर
- (2) अमेरिकन ली/सी. एसीजीयोन के कानूनी
- (3) प्रत्यार्पी एसीजीयोन के कानूनी
- (4) अधिकारी, राज्य विधान सभा, दिल्ली

सूचना पुष्ट अवश्यक दिल्ली


P.L. Srivastava, DDO, BP


S.P. Singh, DDO, BP


D.P. Singh


T. S. Singh
20/11/05