

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

Original Application No. 239 of 2003

Jabalpur this the 17th day of August, 2004

CORAM

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. A.K. Bhatnagar, Jud. Member

M. Krishna Kumar S/o Shri R. Muthusubramanian House No.
 L.I.G. 48, Housing Board Colony, Near Head Post Office,
 Jabalpur.

Applicant

By applicant in person

Versus

1. Union of India through Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, West Central Railway, Jabalpur.
3. Chief Signal Telecommunication Engineer, West Central Railway, Jabalpur.
4. Additional Divisional Railway Manager, West Central Railway, Jabalpur.
5. Shri Neeraj Kumar Pandey, Senior Divisional Signal Telecommunication Engineer, West Central Railway, Jabalpur.

Respondents

By Advocate Shri H.B. Srivastava

O R D E R (Oral)

By Hon'ble Mr. A.K. Bhatnagar, J.M.

By this O.A. applicant has claimed the following reliefs:-

- (1) Quash the order of reduction to a lower stage passed by the disciplinary authority dated 08.02.2001 (annexure A-1).

(ii) To quash the order of confirmation of appellate authority dated 29.05.01(annexure A-II)

(iii) Direct the respondents that the period be treated as being in continuous service.

(iv) Direct the respondents to pay full wages with consequential benefits/arrears of the period fixing the correct pay scale/increment pertaining to the services.

(v) Direct the respondents to maintain/regularise his leave according to rules (including leave balance due from other divisions (Bombay Central and Ratlam where the applicant was earlier posted)).

(vi) That the applicant be paid all legitimate pay and allowances alongwith bonus/arrears withheld from time to time as admissible under the rules.

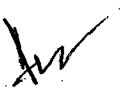
(vii) Send of the records of the case.

(viii) Any other writ, order or direction this Honourable Tribunal deems fit in the interest of justice."

2. The brief facts as per the applicant are that while serving as Section Engineer (Signal) ^{control office central} ~~Western~~ ^{Jabalpur} Railway ~~Mumbai Central~~, on 07.09.99 he was served with a charge (annexure A.4 dated 31.08.99) sheet of major penalty at his residence, issued by respondent no.5 alleging that the applicant was absconding from 11.05.99 till date (07.09.99), ^{although} ~~whereas~~ the applicant was under medical treatment/reported sick ^{at} ~~from~~ Government Medical College, Jabalpur from 11.05.99 to 19.08.99. The applicant submitted a reply to the charge-sheet. The inquiry was conducted and it was completed on 12.12.00. The Enquiry Officer gave his findings on 19.12.2000. The applicant represented against the same giving application to Sr.DSTE, CR, Jabalpur on 18.01.2001. The disciplinary authority after considering

the charges given in the charge sheet and the reply filed by the applicant, awarded punishment of penalty of reduction to lower stage in same time scale for a period of 4 years with cumulative effect and reduced the pay of the applicant in grade Rs.6500-10500 to Rs.6900/- for a period of 4 years from the date of passing of the order. It was also directed that during this period he will not earn any increment as well. Against which applicant filed an appeal (Annexure A-13) to the appellate authority which was also rejected. He also sent revision petition to chief Signal Telecommunication Engineer, Central Railway Mumbai (Annexure-A-14) which has also not yet been decided by the revisional authority. ~~authorities~~ Hence, he filed this OA.

3. It is submitted by the applicant that the charge against him is that he was absconding from 11.05.1999 till date 07.09.1999, whereas the applicant was under medical treatment/reported sick from Government medical College, Jabalpur from 11.05.1999 to 19.08.1999 and after reporting to the railway doctor alongwith the certificate was given a duty/fit certificate, which was all submitted to respondent No.5 for resumption of his duty. After which he resumed duty on 20.08.1999 so the applicant was never absent from duty but was under the medical treatment, which should not be taken as unauthorised absence. It is further submitted that action of the respondents in passing the impugned order of reduction to lower stage in same time scale, is arbitrary, illegal and unjust. He further submitted that no proper inquiry has been held and action of the respondents is, therefore, penal in nature and deserves to be set aside. The applicant further submitted that the inquiry has been conducted without giving reasonable



opportunity of defence, which is against the principle of natural justice. Moreover, the applicant has not been supplied with the enquiry proceedings, relevant documents and statement of the departmental witnesses, which tantamounts to deprivation of reasonable opportunity. He further submitted that neither a show cause notice for major penalty was given to him nor the request to change the Enquiry Officer-and the Department, was considered, which shows the malafide intention of the respondents. It is further submitted that the charge sheet is not specific hence liable to be quashed.

4. Resisting the claim of the applicant, the respondents have filed their counter-reply and submitted that by order dated 08.02.2001(Annexure-A-I), the applicant has been awarded with the punishment of reduction to lower stage in the same time scale for a period of 4 years with cumulative effect and the pay of the applicant has been brought down in the scale of Rs.6500-10500 to Rs.6900/- for a period of 4 years from the date of order. The above punishment has been confirmed by the appellate authority on 29.5.2001(Annexure-II) and filing of reason is not mandatory. The orders passed by the authorities are well with the rules and cannot be termed as double jeo pardy. The charge sheet dated 31.08.1999 issued to the applicant contains charge of his unauthorised absence from 11.06.1999 without intimating his superiors about his sickness and treatment in private hospital within 48 hours, as required. He has been treated absent in spite of proper fit and sick certificate issued by the authorised medical attendants. The demanded documents by the applicant were duly supplied



to him, thus, the proper legal course was adopted. Learned counsel further submitted that the punishment awarded to the applicant ^{has} have been imposed after issue of charge sheet and after holding departmental inquiry as per the provisions of Discipline & Appeal Rules, 1968. The case of the applicant was not of emergent nature. He was only an outdoor patient and should have consulted his authorised medical attendant. The applicant was free to raise all the issues in the inquiry in which he was clearly stated that he was satisfied with the manner in which inquiry was conducted. Learned counsel for the respondents finally submitted that the punishment was awarded after issuing charge sheet and after holding a proper inquiry, as provided under the rules. Show cause notice was also issued before the final ^{punishment} Judgment, so no illegality has been committed by the respondents in awarding the punishment to the applicant.

5. We have heard the applicant in person and Shri H.B. Srivastava, learned counsel for the respondents. We have also perused the pleadings.

6. Admittedly, the applicant was charge-sheeted for his unauthorised absence from 11.06.1999 to 19.08.1999. We have seen the medical certificates filed by the applicant which have been issued by a Doctor other than the Doctors of the Railway Hospital. We ^{are} have unable to understand as to ^{did} why the applicant ~~do~~ not inform about his sickness and to the department apply for grant of leave before and afterwards, and what was the necessity of going to private Doctors when the medical facilities ^{were} readily available in the railway hospital for the railway employees. The applicant was

also not admitted in any hospital as Indoor Patient but was Outdoor patient. Even if it is taken to be true that he was not in a position to go to railway hospital, the applicant has nowhere given any cause to go to private doctors instead of authorised railway doctors. From the perusal of the record we find that the applicant could not explained his unauthorised absence for which he was charge-sheeted and given punishment. The applicant is an educated employee of the railways serving as Senior Section Engineer who is supposed to have knowledge about the departmental rules. He could have certainly informed the department about his sickness or undertaken treatment in the railway hospital but instead of availing the legal course, the applicant has preferred to take his own way and stand, which cannot be termed as just and proper.

7. We have also gone through the charges levelled against the applicant and the statement of the applicant before the Enquiry Officer, in which applicant has clearly admitted that he was not referred by any railway doctor, [✓] to any other doctor/hospital [✓] therefore, it ^{Can} [✓] not justify the claim of the applicant that he was not unauthorisedly absent.

8. We have also gone through the findings of the Enquiry Officer by which the charges [✓] ~~are~~ ^{were} proved. The inquiry report was served on the applicant and he sent his representation and the disciplinary authority after considering the findings of the Enquiry Officer and the representation so filed by the applicant, has imposed the punishment on the applicant, reducing him to lower stage in the same time scale for a period of 4 years with cumulative effect. Against which the applicant filed an appeal before the appellate authority

which was also decided by the order dated 29.05.2001 confirming the earlier penalty imposed by the disciplinary authority. We have found no procedural irregularity committed by the respondents. Every opportunity has been given to him to defend himself.

9. From the perusal of pleadings, we find that the applicant remained unauthorisedly absent from duty from 11.06.1999 to 19.08.99. During this period he claimed sick and had that he had been shown himself as OPD patient in the Govt. Medical Hospital, Jabalpur, although it is an admitted fact that railway hospital is situated just about 1½ kms. from the place of O.P.D. where the applicant is stated to have got treatment. He could have very well informed the administration regarding the position but he did not do so. It is well settled that Tribunal cannot re-appraise the evidence or interfere in the quantum of punishment only if it shocks the conscience of the Court.

10. In view of the aforesaid discussion, we find no illegality in the findings of the Enquiry Officer, Disciplinary Authority as well as of the Appellate Authority. The orders passed by them are detailed and reasoned, which do not require any intervention by this Tribunal. Accordingly, we find no merit in the O.A., which is dismissed. No order as to costs.

(A.K. Bhatnagar,)
Member Judicial

(M.P. Singh)
Vice Chairman

/M.M./