

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No.827/03

Jabalpur, this the 6 th day of August, 2004.

C O R A M

Hon'ble Mr.Sarweshwar Jha, Administrative Member  
Hon'ble Mr.Madan Mohan, Judicial Member

M.L.Richard  
S/o Shri Neck Richard  
Chief Trains Clerk  
working in the office of  
Chief Yard Master, West  
Central Railway  
Nishatpura, Bhopal (M.P.)

...Applicant

(By advocate Shri L.S.Rajput)

Versus

1. Union of India through  
The General Manager  
West Central Railway  
Near Railway Station  
Indira Market, Jabalpur.
2. The Divisional Railway Manager  
West Central Railway  
DRM's Office, Habibganj  
Bhopal (M.P.)

...Respondents.

(By advocate Shri S.P.Sinha )

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks the following  
main relief:

To quash the punishment orders Annexure A-2,  
Annexure A-3 & Annexure A-4 along with the  
charge sheet dated 10.7.2000 (Annexure A-1)  
being honest & void, with all consequential  
benefits.

2. The brief facts of the case are that the applicant  
is presently working as Chief Trains Clerk Grade Rs.  
5500-9000 at Bhopal. While working as Chief Trains  
Clerk at Itarsi under Chief Yard Master, the applicant  
was served with a major penalty charge sheet dated

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10.7.2000 (Annexure A-1) by the disciplinary authority containing the charges of refusing to work, reporting sick and making mistakes. The applicant submitted his reply to the allegations on 20.7.2000 denying all the three charges levelled against him. A departmental enquiry under Rule 9 of Railway Servants (D&A) Rules 1968 was ordered by the disciplinary authority. The applicant submitted his defence note on 22.11.2000 denying the charges. The defence note was completely ignored by the enquiry officer while submitting the enquiry report. The report of the enquiry officer is not based on any evidence. The applicant also submitted his reply to the show cause notice on 15.12.2000. The disciplinary authority without application of mind and without considering the evidence on record imposed the punishment of reduction to lower post/grade from grade Rs.5500-9000(RSRP) to the lowest grade Rs.3050-4590 (RSRP) reducing the pay of the applicant at Rs. 4000 for a period of three years with cumulative effect, having effect on seniority. The speaking order as well as the disagreement note attached with the punishment order are vague and cryptic. The copy of the order dated 26/27.3.2001 is marked as Annexure A-2. The applicant filed appeal on 11.9.2001 but the appellate authority refused to condone the delay and rejected the appeal summarily without application of mind vide order dated 18.6.2002 (Annexure A-3) though the appeal was filed late by 114 days. The applicant filed a revision petition to the revisional authority on 15.8.2002. The revisional authority, although considered the petition on merits but without looking to the facts of the case passed an

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order on 31.3.2003 (Annexure A-4). Although the punishment has been reduced, it is too harsh and shocking. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that charge No.1 is not proved against the applicant, which is also mentioned in the enquiry officer's report and other charges are also not proved. The enquiry officer has not considered the evidence of defence adduced on behalf of the applicant and he has submitted his report against the facts and record of the matter. Hence the report submitted by the enquiry officer is against the provisions of law and perverse. The orders passed by the authorities concerned are non-speaking orders. The applicant filed appeal though by a delay of 114 days but it was never considered by the appellate authority and that authority did not condone the delay and rejected the appeal without considering the merits and contentions of the applicant. However, the reviewing authority reduced the penalty from three years to one year but the applicant was not liable for any penalty even imposed by the reviewing authority dated 31.3.2003 (Annexure A-4).

4. In reply, the learned counsel for the respondents argued that the enquiry was conducted according to rules. The enquiry officer submitted his report on 29.11.2000 with a note of disciplinary authority and he found the applicant guilty on the basis of the evidence and the statement of the applicant. The disciplinary authority disagreeing with the finding of the enquiry officer issued a show cause notice dated 8.12.2000 which was replied by the applicant by reply dated 15.12.2000.

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Charges 2 & 3 against the applicant were found to be proved and established by the enquiry officer and against charge No.1, the disciplinary authority issued a dissenting note and also issued a show cause notice and opportunity was given to the applicant to reply. The report of the enquiry officer was submitted in accordance with law and after considering all the facts and documents available on record. The respondents have not committed any irregularity or illegality. The orders passed by the authorities concerned are perfectly speaking and reasoned orders and the appeal of the applicant was rightly dismissed on the ground of filing it after considerable delay and the reviewing authority while inflicting punishment on the applicant has reduced it. Hence this OA is liable to be dismissed.

5. After hearing the learned counsel for both parties and careful perusal of the records, we find that in the report of the enquiry officer, charge No.1 was not proved while the other two charges were proved and established against the applicant. The disciplinary authority issued a dissenting note on 8.12.2000 and the applicant was given opportunity to submit his reply and the applicant submitted his reply on 15.12.2000. This is not a case of no evidence and the Tribunal cannot re-appraise the evidence and due opportunity of hearing was given to the applicant. We have perused the impugned orders of the disciplinary authority dated 27.3.2001 (Annexure A2), the order passed by the appellate authority dated 18.6.02 (Annexure A3), and also of the revising authority dated 31.3.2003 (Annexure A4). All the three orders are speaking orders. The appellate authority has rightly dismissed



the appeal on the ground of limitation because the applicant had filed the appeal after considerable delay of 114 days. The applicant filed a revision petition against the order passed by the appellate authority and the revising authority decided to reduce the punishment after considering all the facts of the case. This order        is perfectly speaking order and having strong reasons.

6. Considering all the facts and circumstances of the case, we are of the opinion that neither any irregularity nor illegality has been committed by the respondents in conducting departmental proceedings and in passing the aforesaid impugned orders. Hence this OA is dismissed.

(Madan Mohan)  
Judicial Member

  
(Sarweshwar Jha)  
Administrative Member

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मुख्यालय सं. ओ/न्या.....जगलपुर, दि.....  
दस्तावेज़ अंको लिखत:—  
(1) राजिन. नाना याज्ञवल्य तर एकामित्रायत, जगलपुर  
(2) आकेश्वर शी/श्रीमती/द्वी/कु.....के काउंसल  
(3) पर्वजी शी/श्रीमती/द्वी  
(4) नाना याज्ञवल्य, जगलपुर ज्यापर्वत  
सूचना द्वारा ग्राहकात्मक कार्यकारी हैं।  
LS Rajput  
SP Sinha  
16-8-04  
उप राजस्वार

Issued  
On 16/8/04