

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 197 of 2002

Jabalpur, this the 20<sup>th</sup> day of January, 2004.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. G. Shanthappa, Judicial Member

Vasudeo Krishna Rao Gode, aged  
about 58 years, S/o Shri Krishna  
Rao Gode, Head Train Ticket  
Examiner, Central Railway  
Jabalpur, resident of 699,  
Sudama Nagar, Madan Mahal,  
Jabalpur (MP)

APPLICANT

(By Advocate - Shri L.S. Rajput)

VERSUS

1. Union of India, Through  
The General Manager,  
Central Railway,  
Mumbai - CST(Maharashtra)

2. The Divisional Railway Manager,  
Central Railway, DRM's Office,  
Jabalpur (M.P.) 482001

RESPONDENTS

(By Advocate - Shri N.S. Ruprah)

O R D E R

By M.P. Singh, Vice Chairman -

By filing this OA the applicant has claimed  
the following main reliefs:-

- "(i)direct the respondents to restore the pay  
of applicant at Rs.6500/- w.e.f. 1-3-2001  
& further to Rs.6650/- from 1-3-2002 & make  
payment of arrear with interest.
- (ii)to further direct the respondents to promote  
the applicant in Grade Rs.5500-9000 (RSRP)  
from 1-3-2001 & assign seniority in that  
grade from the date his next junior was  
promoted.
- (iii)direct the respondents to consider the  
applicant for selection to the grade of  
Rs.6500-10500 (RSRP) with seniority from  
the date his juniors have been empanelled.
- (iv)to quash the punishment order dated  
22.6.2000 (Ann.R-3) & award all consequential  
benefits to the applicant flowing from  
such order, as if no such impugned order  
(Ann.R-3) was passed".

2. The brief admitted facts of the case are that

the applicant is working as Head T.T.E in the grade of Rs.5000-8000 with the headquarters at Jabalpur. While working as Train Ticket Examiner he was served with a minor penalty charge sheet on 20.5.1997. After considering his reply to the charge sheet, he was awarded the punishment of withholding of his increment from 1.3.1999 for a period of two years with non-cumulative effect vide order dated 22.6.1998 (Annexure-A-1). The said period of punishment was over on 28.2.2001 and the pay of the applicant should have been restored to Rs.6500/- w.e.f.1.3.2001 in the grade of Rs.5000-8000. In the meanwhile the applicant has also been inflicted another punishment vide order dated 22.6.2000 by which his increments which were falling due on 1.3.2001 were withheld for a period of 2 years with non-cumulative effect. After the effect of the punishment order dated 22.6.1998 was over, the applicant's pay was fixed at the stage of Rs.6350/- and thereafter the effect of second punishment order dated 22.6.2000 (Annexure-R-3) began and the applicant underwent this punishment also. During the currency of minor penalty, the employees are not generally promoted, therefore, the applicant was not promoted. Aggrieved by this, the applicant has filed this OA, claiming the afore-mentioned reliefs.

3. Heard both the learned counsel and perused the pleadings carefully.

4. The learned counsel for the applicant has stated that the applicant has not received a copy of the order dated 22.6.2000 by which penalty of withholding of increment for two years has been imposed on him. He has further submitted that no order could become operative till such time the same is served on the delinquent employee. In this context he has relied on the decision of Allahabad Bench of the Tribunal in the case of Sudhanshu Vachaspati Tripathi Vs.

Union of India & others. O.A.No.43 of 2002 decided on 19.8.02.  
Contd.....3/-

5. On the other hand the learned counsel for the respondents has stated that the applicant has already admitted his guilt vide his application dated 9.5.2000 (Annexure-A-4). He has also submitted that the applicant was well aware of this punishment as he has filed an appeal against the punishment order as is evident from Annexure-A-5. He has also submitted that the respondents have followed the laid down procedure under the Railway rules. Before imposing the penalties on the applicant, he was given opportunity of hearing and thus principles of natural justice have been observed by the respondents. The learned counsel for the respondents has submitted that the applicant has not waited for the decision of the respondents on his appeal and has rushed to the Tribunal, therefore, this OA is premature.

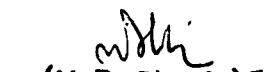
6. We have very carefully considered the arguments advanced by both the counsel. We find from Annexure-A-4 which is the reply to the charge sheet for imposing minor penalty, that the applicant in the last para of his reply has mentioned that he always used to declare his private cash but on 11/12.8.1999 he had forgotten to declare this. He did not know as to how this mistake had been committed and for this mistake he <sup>may</sup> be ~~had~~ pardoned and prayed that the charge-sheet <sup>may</sup> be dropped. As regards the service of the order of punishment on the applicant, we find that on 22.10.2001 the applicant himself has mentioned to the Sr.DCM to withdraw the punishment imposed on him and he had also sought for personal hearing. Therefore, the applicant cannot take the plea that the punishment order dated 22.6.2000 has not been served on him and he was not aware. Therefore, the reliance placed by the applicant on the decision of Sudhanshu Vachaspati Tripathi (supra) has no application to this case as it is distinguishable because in that case the order was quashed on different grounds and the quashing of the order was not only on the ground of non-receipt of the punishment order.

7. We have also seen that the respondents have followed the due procedure before imposing the minor penalty on the applicant on 22.6.2000. However, the respondents have contended that the applicant has approached this Tribunal without exhausting the departmental remedy available to him as his appeal has not yet been decided by the appellate authority. In this view of the matter we feel that in the interest of justice we may dispose of this OA by directing the applicant to file his comprehensive appeal to the competent authority within a period of 15 days from the date of receipt of a copy of this order. <sup>With</sup> ~~in~~ we Order accordingly. In case the applicant complies with this order, the appellate authority is directed to dispose of the applicant's appeal by passing a detailed, reasoned and speaking order within a period of two months of the receipt of the applicant's appeal.

8. In the result, the OA is disposed of in the above terms. No costs.



(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

rkv.

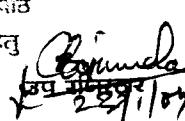
पूर्णकल रां ओ/न्या.....जबलपुर, दि.....

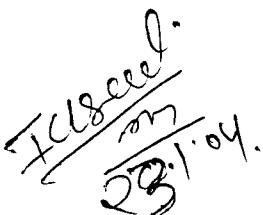
पत्रितिवि लावे दित:-

(1) संविध, उत्ता व्यापार वार एकेमिया, जबलपुर  
(2) आवेदन श्री/मिस्ट्री/कु..... के काउंसल  
(3) प्रत्यर्थी श्री/मिस्ट्री/कु..... के काउंसल  
(4) ग्रंथपाल, केप्रभा, जबलपुर न्यायालय  
सूचना एवं आवश्यक कार्यवाही हेतु

Shri L.S. Rajput H.C. 156

Shri N.S. Rupraha H.C. 2137

  
Comptroller  
23/7/03

  
23/7/03