

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 211 of 2002

Jabalpur, this the 27th day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)
Hon'ble Mr. R.K. Upadhyaya - Member (Admnv.)

Kripa Ram Savita aged about 42 years
S/o Shri Shyam Sunder Lal, Savita, resident
of C/o Naval Kishore Soni,
Ghosipura Road Guna (M.P.)

APPLICANT

(By Advocate - Shri L.S. Rajput)

VERSUS

: UNION OF INDIA, Through

1. The General Manager
Central Railway,
Mumbai- CST (MAHARASHTRA)
2. The Divisional Railway Manager
Central Railway
Habibganj - BHOPAL (M.P.)

RESPONDENTS

(By Advocate Shri S.P. Singh)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

Applicant impugns major penalty chargesheet dated 26.4.2000, removal order dated 17.10.2000, appellate order dated 22.1.2001, modifying the punishment to permanent reversion as well as revision order dated 5.11.2001, maintaining the punishment.

2. He has sought quashment of these orders with grant of consequential benefits.

3. Applicant while working as Carriage Foreman has been proceeded on the ground that on 15.2.2000 he has failed to conduct safe to run examination. Enquiry Officer held him guilty of the charge. On reply to the findings he has been removed from service by an order dated 17.10.2000 and on appeal against

the order punishment was reduced to reduction from the post of CF to TXR. By an order dated 5.11.2001 on a revision aforesaid punishment has been maintained, giving rise to the present OA.

4. Learned counsel for applicant at the outset contended that the punishment imposed which was modified in appeal whereby he has been permanently reverted is contrary to Railway Board's letter dated 22.2.74 and has been held illegal by this Bench in Ram Kishore v. Union of India, 1990 (1) SLJ 298.

5. It is further contended that the enquiry has not be conducted in accordance with rules. His defence witnesses have not been allowed to be examined and his defence^{Note} was not accepted by the E.O. He contends that orders passed are non-speaking and the punishment is shockingly disproportionate to the charge. In so far as his admission before the appellate authority is concerned, which led to reduction of punishment, it is stated that although he has given a ~~different~~ statement but was pressurised to give a statement by the appellate authority which was not voluntary.

6. On the other hand, respondents' counsel Shri S.P. Singh denied the aforesaid contentions and contended that the charge against applicant was very grave and applicant himself has not made any application to call for the defence witnesses. In his penalty order where apart from removing^{him} the pensionary benefits^h have been allowed and as per rules on removal one is not entitled for retiral benefits.

7. It is also contended that on his own volition without any force or coercion admitted the charges and sought pardon before the appellate authority, accordingly

punishment has been modified which does not suffer from any legal infirmity and the enquiry is conducted in accordance with rules. As applicant was not available at rolling in examination position and did not come on the train for carrying out safe to run examination it was found that axle box feeling and wheel tapping was not done on this train. Applicant has given his explanation as to visit to Doctor but this does not absolve him from the grave negligence which could have resulted in serious accident.

8. We have carefully considered the rival contentions of the parties and perused the material on record. From the perusal of the enquiry proceedings we are of the considered view that applicant's misconduct has been amply proved from the evidence and the witnesses and as applicant had himself admitted the charge and sought pardon before the appellate authority the question of any violation of principles of natural justice does not arise. His contention that the statement was made under duress cannot be countenanced as immediately he preferred a revision petition in which he has not taken such a plea which shows that the defence is an after thought. Moreover, applicant has not moved any application for defence witnesses and has not established that he has been prejudiced in any manner during the conduct of the disciplinary proceedings. The findings are neither perverse. The orders passed are reasoned and do not suffer from any legal infirmity.

9. However, in so far as reduced punishment is concerned, as applicant has been reverted on permanent basis which is not in accordance with Board's circular dated 22.2.74 and such punishment is held to be not tenable in Ram Kishore's case (supra) the same

cannot be sustained. In the result, upholding the order of punishment and finding on the misconduct appellate order is set aside to the extent of illegal penalty of permanent reversion. Respondents are directed to modify the aforesaid punishment in accordance with Board's circular dated 22.2.74 within a period of two months from the date of receipt of a copy of this order. Consequently, revision order is also quashed and set aside. No costs.

(Signature)
 (R.K. Upadhyaya)
 Member (A)

S. Raju
 (Shanker Raju)
 Member (J)

'San.'

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
 प्रतिष्ठिति वाले जिले :-
 (1) ~~.....~~ जबर एकेडमिशन, जबलपुर
 (2) ~~.....~~ के कानुंसल
 (3) ~~.....~~ के कानुंसल
 (4) ~~.....~~ के कानुंसल
 सूचना एवं आवश्यक कार्यवाही हेतु
 उप सचिव

L.S. Rajput Adl
S.P. Singh Adl

(Signature)
 1.4.03

Issued
on 1-4-03
BS