

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

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Original Application No. 491/2002

Jabalpur, this the 24th day of June, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (Judicial)

R.M. Mishra s/o Sh. M.P. Mishra,
Station Superintendent,
Khirkiya Station, Central Rly.
Bina-Guna Section.

...Applicant

(By Advocate : None)

-versus-

1. Union of India through
Secretary,
Railway Board,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. The Chief Operation Manager,
General Manager's office,
Chatrapati Shivaji Terminus(CR),
Mumbai.
3. The Additional Railway Manager,
Central Railway,
Bhopal (M.P.).
4. The Senior Divisional Operations Manager,
Central Railway,
Bhopal (Madhya Pradesh).
...Respondents

(By Advocate: Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Member (Judicial)-

By filing the present application, the applicant has sought the following main reliefs:-

"(i) That the Hon'ble Tribunal be pleased to call upon the respondents to produce the entire records pertaining to the issuance of the impugned order dated 27.6.2001 (Annexure A-1).

(ii) That the Hon'ble Tribunal be further pleased to quash the impugned order dated 27.6.2001 to the extent of placing the applicant at the reduced grade of Rs. 5500-9000 (RSRP) fixing his pay at Rs. 5500/- for a period of 2 years (NC) while reinstating the applicant in service as well as treating the period from the date of compulsory retirement till the date of reinstatement as "Leave without pay" , by a writ in the nature of certiorary.

(iii) to direct the respondents by a writ in the

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nature of mandamus to fix the applicant's pay in the pay scale of Rs. 6500-10500 with retrospective effect and pay him arrears of salary with interest.

iv) To direct the respondents to pay him salary for the intervening period i.e. from the date of compulsory retirement till the date of reinstatement in the pay scale of Rs. 6500-10500 treating the said intervening period as spent on duty, in the interest of justice."

2. The brief facts of the case are that at the relevant point of time the applicant was posted as Station Superintendent, Khirkiya, Bina-Guna Section. The applicant was appointed as Assistant Station Manager vide order dated 4.7.1998 and since then he is discharging his duties to the best of his ability. However, the applicant was chargesheeted on 4.1.1999 while serving as Station Superintending Khirkiya Station. The applicant submitted his reply to the said chargesheet denying all the allegations levelled against him and requested for a departmental enquiry. Enquiry was conducted by the enquiry officer but the enquiry officer without affording proper opportunity to him submitted his report holding the charges proved against the applicant. The enquiry officer not only misconstrued the facts brought on record but recorded an absolute perverse finding based on his whims and caprice. Respondent no. 4 issued a show cause notice dated 16.3.2000 proposing a major penalty of removal from service to be imposed upon the applicant. The applicant replied to the said show cause notice vide reply dated 1.4.2000. The respondent no. 4 without considering the contentions of the applicant imposed a major penalty of reduction to a lower post/grade from the pay scale of Rs. 6500-10500 to 5500-9000 for two years with cumulative effect which is wholly unwarranted in the eyes of law and fact. Aggrieved by the said order of the respondent no. 4, the applicant preferred an appeal before respondent no. 3 vide memo of appeal dated 18.5.2000. Instead of considering his appeal on merits, the respondent no. 3 issued a show cause notice dated 1.9.2001 to enhance the penalty for dismissal

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from service and called upon the applicant to submit his reply thereof. The applicant furnished reply thereto vide letter dated 15.11.2000. The respondent no. 3 imposed a punishment of compulsory retirement upon the applicant vide order dated 4.12.2000(A/7). Being aggrieved by the said order of the appellate authority, the applicant preferred a revision petition dated 30.1.2001 before respondent no. 2, which is annexed at Annexure A-8, The revisional authority found that some reasonable opportunity was not afforded to the applicant and passed an order stating that the statements were contradictory and therefore the charge of claim of false T.A, according to him was proved. The revisional authority though re-instated the applicant in service but on the lower/reduced grade of Rs. 5500-9000 (RSRP) fixing his pay at Rs. 5500/- for the period of two years (non-cumulative) and the intervening period from the date of compulsory retirement to the date of re-instatement in service to be treated as "Leave without pay". The said order is also perverse in nature as the revisional authority has arbitrarily, unreasonably and illegally denied the applicant payment for the intervening period declaring the said period "Leave with pay".

3. None is present on behalf of the applicant. Since this an old matter pertaining to the year 2002, we proceed to dispose of the same by invoking the provisions of Rule 15 of the CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents.

4. Learned counsel for the respondents argued that the applicant was given due opportunity of hearing as he has submitted his representation against the show cause notice and also preferred an appeal against the order of disciplinary authority. He also preferred an revision petition before the revisional authority against the order of appellate authority and the revisional authority after giving due consideration reduced the punishment of reduction of pay for two years

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with cumulative effect to non-cumulative effect by passing a speaking and reasoned order. Charges against the applicant are very serious in nature as he claimed the false T.A. and he left the headquarter on 21.8.1998 with permission and remained in Harda for the whole day and also did not return to headquarter. Further more he did not pay full devotion to his duties and remain negligent. It is argued that all the charges were proved and no irregularities and illegalities have been committed by the respondent while passing the impugned orders which are speaking and reasoned orders. This is also not the case of 'no evidence'. It is further argued by giving proper opportunity to the applicant respondents have followed the principles of natural justice. Therefore, the O.A. deserves to be dismissed.

5. After hearing the learned counsel for the respondents and perusing the record on court file and the disciplinary enquiry's record produced by the respondents, we find that the charges levelled against the applicant are serious in nature as he claimed false TA and caused loss to the public money. It is also seen that the charges levelled against the applicant were proved and established during the enquiry proceedings as he has also been negligent to his work. The applicant was given proper opportunity of hearing as he has filed the reply to the show cause notice and preferred an appeal against the order of the disciplinary authority. He also preferred a revision petition against the appellate order and the revisional authority has considered the contentions of the applicant raised in his revision petition and modified the punishment of reduction in pay for two years with cumulative effect to non-cumulative effect by passing a speaking and reasoned order. Hence, it cannot be said that the applicant was denied full opportunity of hearing rather the respondents have followed the principle of natural justice, and have not committed any irregularity and illegality while passing the reasoned and speaking impugned orders. This is

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not a case of 'no evidence'. It is the settled legal position of law that the Tribunals/courts cannot re-appraise the evidence and also cannot go into the quantum of punishment.

7. In the facts and circumstances of the case, we find no infirmity with the impugned orders passed by the respondents upto the revisional authority and hence the O.A. fails merit and deserves to be dismissed which is accordingly dismissed without any order as to costs.

(Madan Mohan)
Member (Judicial)

(M.P.Singh)
Vice Chairman

/na/

पूछांकन से ओ/ज्ञा..... ज्ञालपुर, दि.....
 उत्तिलिपि अठे लिखते—

- (1) स्वर्गित, उच्च ज्ञानात्म याद एवं लिखन, ज्ञालपुर
- (2) अखेदक श्री/श्रीमती/कु..... ले वहाँसंस्कृत
- (3) पर्वती श्री/श्रीमती/कु..... के काउसल
- (4) दोषपात्र, एवं त्रयी, ज्ञालपुर ज्ञानापीठ

सूचना एवं आवश्यक कार्यवाही हेतु

Rajendra
उपराजपत्रकार

Feb 2004