

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 552 of 2002

Jabalpur, this the 24th day of June, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

R.M. Mishra,
S/o Mishra
Station Superintendent,
Khirkiya Station,
Central Railway,
Bina-Guna Section .

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India,
Through the General Manager,
Central Railway
C.S.T.M Mumbai.
2. The Chief Operation
Manager, Central Railway,
Chhatrapati Shivaji
Terminus, Mumbai,
Maharashtra State.
3. The Additional Divisional Railway
Manager, Central Railway,
Bhopal, M.P.
4. The Senior Divisional
Operating Manager
Central Railway,
Bhopal, M.P.

RESPONDENTS

(By Advocate - Shri H.B. Shrivastava)

ORDER

By Madan Mohan, Judicial Member :-

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

"(ii) to quash the impugned orders dated 24.7.2000 (Annexure-A-1), dated 10.10.2000 (Annexure-A-3) and dated 29.06.2001 (Annexure-A-4) by a writ in the nature of certiorari.

(iii) to direct the respondents by a writ in the nature of mandamus to grant the applicant the benefit of continuity of service in the matter of pay fixation, seniority, promotion etc. treating the period between the date of order of dismissal and the order of reinstatement in service "as the period spent on duty".

(iv) to command the respondent to fix the applicant's pay in the pay scale of Rs. 6500-10500 from the date he was dismissed from service".

2. The brief facts of the case are that the applicant was appointed as Assistant Station Master vide order dated 4.7.1998 and has rendered more than 23 years of unblemished service with the respondents department. While working as Station Superintendent Khirkiya, the applicant was served with a chargesheet dated 14.9.1999. The applicant denied all the charges and demanded for enquiry vide letter dated 1.10.1999. He participated in the enquiry proceedings. The enquiry officer on mis-reading of statement of witnesses and without any relevant documentary evidence recorded lop sided findings against the applicant in respect of charges which are highly prejudicial to the rights and interest of the applicant, being perverse in nature. The disciplinary authority without application of mind and in a most arbitrary, unreasonable and mechanical manner imposed a severe penalty of dismissal from service on the applicant by order dated 24.7.2000(A/1). Moreover the disciplinary authority i.e. respondent no. 4 is lower in rank than his appointing authority i.e. Chief Personnel Officer, Mumbai. Hence, the order of the disciplinary authority is bad in law and contrary to Article 311(1) of the Constitution. The applicant, being aggrieved by the said order of the disciplinary authority, preferred an appeal before the appellate authority and the appellate authority modified the punishment of dismissal to the penalty of reducing the pay to the minimum basic pay of Rs. 4500 in the pay scale of Rs. 4500-7000 for five years with cumulative effect. The intervening period between the date of dismissal and the reinstatement was declared to be 'dies non'. But the appellate authority ignored some material and relevant facts while passing the above order. Hence, the applicant preferred a revision petition against the order dated 10.10.2000 passed by the appellate authority on 17.12.2000(A/10). The revisional authority did not look into all the submissions made by the applicant in his revision petition and passed the impugned order dated 29.6.2001 whereby the punishment of reduction of pay in the minimum basic pay



of Rs. 4500 in the pay scale of Rs. 4500-7000 for five years with cumulative effect was modified to two and half years with cumulative effect but the treatment of the intervening period has not been touched or deleted. It is submitted that the impugned order of the revisional authority is also bad in law as the same suffers from perversity, non-application of mind, unreasonability and arbitrariness and the same cannot sustain in the eye of law. Hence, the present O.A. has been filed for seeking the aforesaid reliefs.

3. None is present on behalf of the applicant. Since this is an old matter pertaining to the year 2002, we are disposing of this matter by invoking the provisions of Rule 15 of C.A.T. (Procedure) Rules, 1987.

4. Heard the learned counsel for the respondents who argued that the applicant had endangered the safety of passengers and caused inconvenience to them and thus the charges were grave and hence proper punishment was inflicted on him. It is further argued that the initial punishment of dismissal from service imposed upon by the disciplinary authority was reduced to reduction of pay in the minimum basic pay of Rs. 4500 in the pay scale of Rs. 4500-7000 for five years with cumulative effect and treating the intervening period as 'dies non' and it was further modified to two and half years by the revisional authority. It is also argued that proper opportunity of hearing was given to the applicant. The applicant left the duty on 30.8.1999 without handing over proper charge to the reliever and went to Harda Station without permission which resulted into great inconvenience to the said act of the applicant to the administration and it also disturbed the operation of trains. As such he failed to obey the orders of his seniors. So far as the allegation of the applicant about the disciplinary authority being lower in rank than his appointing authority is concerned, it is argued that since persons on compassionate grounds are appointed only after the sanction given by the Chief Personnel Officer and the letter dated 4.7.1998 is



the sanction order issued by the Chief Personnel Officer. But the appointing authority of the applicant is J.A. Grade Officer and the Sr. D.O.M., who has inflicted the punishment on the applicant, is also the J.A. Grade Officer. Besides this the applicant was promoted on the post of Station Super-intendent by the Sr. D.P.O. who is also J.A. Grade Officer. ^{to} Thus the allegation of the applicant in this regard has no leg/ stand. Hence no irregularity or illegality has been committed by the respondents in passing the impugned orders and there is no violation of principles of natural justice as the applicant was given full opportunity of hearing in the matter and the impugned orders are speaking orders. ^{having} ^{hearing}

5. After/the learned counsel for the respondents and/ perused the material available on record, we find that proper opportunity of hearing was afforded to the applicant as he submitted his representation against the enquiry report which was rejected by the disciplinary authority and he was imposed with the punishment of dismissal. Against the said order of the disciplinary authority, the applicant preferred an appeal and the appellate authority vide its order dated 10.10.2000 (A/3) reduced the punishment of dismissal to reduction of pay in the minimum basic pay of Rs. 4500 in the pay scale of and declaring the intervening period to be treated as 'dies non' Rs. 4500-7000 for five years with cumulative effect/ Against this order of the appellate authority also the applicant preferred a revision petition which was disposed of by the revisional authority on 29.6.2001 (A/4) reducing the punishment awarded by the appellate authority to reduction of pay in the minimum pay of Rs. 4500 in the pay scale of Rs. 4500-7000 for two and half years instead of half years. we see that proper opportunity had been afforded to the applicant and his claim was considered properly by all the above authorities and no irregularity or illegality has been committed by them in passing their respective impugned orders. So far as the order passed by the disciplinary authority is concerned, it is passed by the competent authority as the disciplinary



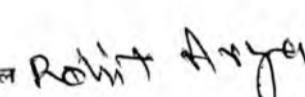
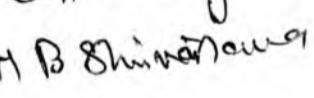
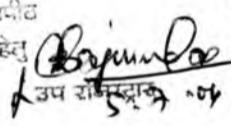
authority i.e. Sr.D.O.M. is not lower in rank than the appointing authority of the applicant i.e. J.A. Grade Officer. We have gone through the alleged appointment letter dated 4.7.1978 issued by the Chief Personnel Officer which in fact is not an appointment letter but a sanction letter. Hence, the contention of the applicant that the disciplinary authority could not have passed the dismissal order being lower in rank than that of his appointing authority is not tenable and is accordingly rejected.

6. In the light of above observations, the O.A. is dismissed. No costs.


(Madan Mohan)
Member (Judicial)


(M.P. Singh)
Vice Chairman

/na/

पूछांकन सं ओ/न्या..... जदलानुर, दि.....
प्रतिनिधि अध्ये दिन:-
(1) साहिव, उच्च न्यायालय वार एक्सेप्टिवर, जदलानुर
(2) आवेदक श्री/श्रीमती/मु. के कानूनी
(3) प्रत्यक्षी श्री/श्रीमती/मु. के कानूनी
(4) व्यंपत्ति, केप्रा, जदलानुर न्यायालय
सुनाना एवं आवश्यक कार्यवाही हेतु 


उप राजस्वाल. - ०४

