

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 432 of 2000

Jabalpur, this the 16th day of February, 2004

Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Shri G.Shanthappa, Member (J)

Moolchand Kori,
s/o Shri Ramlal Kori,
R/o LIG 265-II,
Vishwabank Colony,
Sanjeevani Nagar, Agar Road,
Ratlam.

...Applicant

(By Advocate: Shri K.N.Pethia)

-Versus-

1. Union of India through
Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi.
2. Western Railway through
General Manager (W.R.)
Churchgate, Mumbai.
3. Divisional Railway Manager (WR)
Ratlam Division,
Ratlam.
4. Sr. Divisional Rail operation
Ratlam Dn.,
Ratlam.

...Respondents.

(By Advocate: Shri M.N. Banerjee)

O R D E R

By G.Shanthappa, Judicial Member -

The above O.A. has been filed by the applicant seeking the following main reliefs:-

- i) To produce all the relevant records pertaining to the incident for perusal of this Hon'ble Tribunal;
- ii) To set aside the punishment awarded to the applicant and applicant be awarded compensatory cost of Rs. 2000/- ; and
- iii) to quash the order passed by the appellate authority

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vide annexure R-1 (filed with the reply) and to pass strictures against the respondents for using the objectionable language in the order.

2. The brief facts of the case are that the applicant was served with a chargesheet dated 8.7.1998 on the allegation that while he was on duty as Assistant Lobbi Supervisor on 11.12.1997 due to his negligence Balba Up Goods Train remain detained at Ujjain-C from 2110 hrs. to 2250 hrs. At that time there was no yard space at line no. 2, he had taken less fuel train which remain standing on the line from 1950 hrs. to 2215 hrs. In place of less fuel train, Balba Up Goods train could have taken on line no. 2 and thus detention could have been avoided.

2.1 The applicant was issued a memo to make a representation as he may wish to make against the charges within ten days. The applicant submitted his representation contending that he has not violated any conduct rules neither the incidence took place due to his negligency. He demanded some documents and specifically mentioned that less fuel problem of the train was within the knowledge of driver or the fuel Controller and he specifically mentioned that detention of train was not in his jurisdiction. He also filed a duty chart of Lobby Supervisor in which there is no mentioned about the duty of Supervisor to maintain the record of fuel.

2.2 The respondents did not supply the documents/ ^{as} requested by the applicant and subsequently they have issued the order dated 16.12.1999 imposing a penalty of withholding the annual grade increment for six months., as per annexure A-4.

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2.3 The applicant has challenged the said order before the appellate authority, ~~the said~~ appeal was pending before the appellate authority. The appellate authority passed the order on the appeal during the pendency of the O.A. The said order has been challenged by amending the O.A. as the appellate order has been produced by the respondents alongwith their reply. In the order, the respondents have used the words " AAP KO BHI SASTE MAIN CHHORA JAYE, SARASAR ANUPYUKT HAI".

2.4 It is pertinent to mention here that according to the applicant, a chargesheet has been issued to the station master Ujjain Shri Milind ~~Umedkar~~ Umedkar. The applicant has also produced the said chargesheet as per Annexure A-5, the said ~~Sh. Umedkar~~ Sh. Umedkar has been awarded the punishment of censure but the applicant has been awarded the punishment of withholding of annual increment for six months. Hence, there is a discrimination done by the disciplinary authority which is not proper. The responsibility of the Station Master was main in/ ^{the} alleged misconduct. The applicant has been falsely implicated and the punishment awarded to him is illegal. The appellate authority has not considered the case of the applicant and rejected the appeal. Both the authorities have violated the principle of natural justice.

3. The respondents have filed their reply denying the averments made in the O.A. ~~THE~~ Applicant was working as Assistant Lobby Supervisor. A minor penalty has been awarded on the basis of the chargesheet for the misconduct committed by him. The applicant submitted his defence reply to the

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chargesheet. The disciplinary authority have considered the defence reply and duty list of the applicant filed by him and awarded the minor penalty. The duty list of the applicant clearly states that A L S time to time must do conference with the Power Controller (PCR) and T.L.C. in which he will ask about fuel position also. Further it is mentioned that Lobby Supervisor will keep control over Goods Yard for reception and despatch of trains and locos and planning as per priority of loads and yards. The applicant failed to perform his duty as per Duty List, which caused heavy detention of trains.

3.1 The applicant was given SF-11 another penalty chargesheet wherein normally there is no need of conducting enquiry and supplying of documents etc. The disciplinary authority has exercised his powers vested with him and imposed the minor penalty, which is proper. There is no illegality or irregularity has been committed by the disciplinary authority.

3.2 The applicant had asked for duty list on 30.5.1998. The respondents have provided a copy of the duty list to the applicant as per Annexure A-3. After receiving the duty list, the applicant submitted his defence reply. The disciplinary authority after considering the defence reply passed the order of penalty. The applicant has preferred an appeal against the said order, the appellate authority has considered the grounds of appeal and rejected the same vide its order dated 26.5.2000 (R/1).

3.3 On 11.12.1997 Shri Milind ^{Um}derkar, Station Master was on duty and he was served with the minor penalty chargesheet but on the basis of the circumstances, Duty list of Station

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Master (P) and gravity of misconduct committed by the Station Master, he was lesser responsible in comparison to the applicant. Hence, he was awarded the punishment of censure. The disciplinary authority has not taken the lenient view in the case of said Milind Umedkar. According to the responsibility of the applicant and the Station Master, proper penalty has been imposed. Hence there is no illegality or irregularity has been committed by the respondents.

4. We have heard the learned counsel for the parties and have perused the pleadings and other documents available on record.

5. The admitted facts of the case are that the train, for which the applicant was in charge, detained from 2210 hrs. to 2250 hrs. at Ujjain-C. For the detention of the train both the Station Master and the applicant are responsible. The respondents have issued the chargesheet and also supplied the documents as requested by the applicant. The applicant had submitted his representation, on the basis of representation to the chargesheet issued against the applicant, the disciplinary authority has imposed the minor penalty of withholding annual increment for six months. Against the said order, the applicant preferred an appeal before the appellate authority who has also considered the grounds taken in the appeal and exercising his powers rejected the appeal.

5.1 The case of the applicant is that the respondents have shown discrimination while imposing the penalty to the applicant and the Station Master. Hence, the order under challenge is illegal and the same is liable to be



quashed.

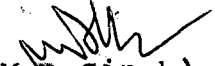
5.2 We have perused the impugned order, chargesheet, representation submitted by the applicant. The disciplinary authority has exercised his powers while considering the case of the applicant and imposing the penalty of minor punishment. We do not find any irregularity or illegality has been committed by the respondents while passing the impugned order. Accordingly, we decline to interfere with the orders of the disciplinary authority.

5.3 We have also perused the orders passed by the appellate authority. The appellate authority has also considered the case of the applicant and confirmed the orders of the disciplinary authority. The reason assigned in the impugned order is suffice in pursuance to the penalty imposed on the applicant.

5.4 Learned counsel for the applicant has also argued that the punishment awarded to the applicant is disproportionate to the charges levelled against him. Regarding the quantum of punishment, the Tribunal cannot direct the respondents to award a particular punishment. This view of ours is fully supported by various judgements of the Hon'ble Supreme Court.

6. For the reasons stated above, we do not find any **while passing impugned orders** irregularity or illegality committed by the respondent/and therefore, the O.A. is dismissed being devoid of merite No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

/na/