

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 727/2000

Jabalpur, this the 26th day of February 2004

HON'BLE SHRI M.P.SINGH, VICE CHAIRMAN
HON'BLE SHRI G.SHANTHAPPA, MEMBER(J)

S.C.Gupta s/o Sh. Shyamlal Gupta,
aged about 51 years,
Pharmacist, Central Railway Hospital,
Jabalpur (MP).

...Applicant

(By Advocate: Km. Malti Dadariya)

-versus-

1. Union of India,
through Secretary,
Ministry of Railway,
New Delhi.
2. The General Manager,
Western Central Railway,
Jabalpur (MP).
3. The Sr. Divisional (Medical) officer,
Western Central Railway,
Jabalpur (MP).
4. The Chief Medical Superintendent,
Western Central Railway,
Jabalpur (MP).
5. The General Manager,
North Central Railway,
Allahabad (UP).

...Respondents

(By Advocate: Shri H.B.Shrivastava)

O R D E R

By G.Shanthappa, Member (J) -

By filing this O.A. the applicant has sought the following main reliefs:-

- i) To quash the impugned order dated 4.8.1999(A/1) in the same pay scale is reduced from the stage by which the penalty of reduction to lower stage of Rs. 5625/- to the stage of Rs. 5125/- in the pay scale of Rs. 4500-125-2000/- for a period of four years .
- ii) To quash the order dated 28,3.2000(A/2) by which the appeal of the applicant has been rejected.

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iii) To direct the respondents to fix the basic pay of the applicant as if order at Annexure A-1 is never passed.

2. The brief facts of the case are that ^{when} the applicant was working as Pharmacist in Swasth Kendra Narsinghpur, Central Railway, a trap was laid by C.B.I., Jabalpur on 27.10.1993. With the result, case No. RC 43(A) 93 JBP dated 29.10.1993 was registered by the C.B.I. against the applicant. The applicant was issued with a chargesheet on the following charges:-

"That Shri S.C.Gupta, while functioning as Pharmacist, Railway Swasthya Kendra, Central Railway, Narsinghpur during the year 1993, committed gross misconduct inasmuch as he demanded and accepted bribe amount of Rs. 50/- from one Sh.Moti Singh s/o Shri Jaikishan, Peon cum Messenger, Central Railway, Jabalpur camping at Narsinghpur, for issue of his medical sickness certificate and while committing the same crime he was caught red handed.

Thus, Shri S.C.Gupta by his above acts and omissions, exhibited lack of integrity and devotion to duty and acted in a manner which is unbecoming of a public servant and thereby contravened Rule 3(1)(i)(ii) and (iii) of Railway Services (Conduct) Rules, 1966."

2.1 The applicant submitted his representation against the chargesheet denying the allegations. The enquiry officer was appointed. After concluding the enquiry, the enquiry officer submitted his report with the findings that "the allegation of demanding money by the CE is not proved. The CE was not competent to issue sick and fit certificate as such this point of the charge is also not proved. However, the part of the charge of acceptance of money by the CE for the doctor is issued on the basis of circumstantial and oral evidence there being no documentary proof on record. Thus, by his above acts, I find that he has violated Rule 3.1 (ii) & (iii) of Railway Service (Conduct) Rules, 1966". A copy of the enquiry report was served on the applicant.

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2.2 The applicant submitted his representation against the report of the enquiry officer. The disciplinary authority after considering the enquiry report as well as representation of the applicant, passed the impugned order at Annexure A-1 imposing the impugned penalty. The applicant has preferred an appeal against the order of the disciplinary authority. The appellate authority has decided the appeal by modifying the punishment to reduction of the pay of the applicant in the same time scale from Rs. 5625/- to Rs. 550/- in the scale of Rs. 4500-7000/- for four years which will not have any cumulative effect. The applicant has challenged the said order on the ground that the principles of natural justice have been violated. Though the enquiry officer has given his finding that the charges are not proved, the disciplinary authority, without issuing the notice, has passed the impugned order. On this ground, the impugned order of the disciplinary authority is liable to be quashed.

2.3 The applicant has filed an MA 1504/2000 for certain amendments ^{to O.A.} alongwith the documents. Since the said M.A. was not allowed, hence we are not considering the contents of the said M.A.

3. The respondents have filed their reply denying the averments made in the O.A. The respondents have supported the order passed by the competent authority. The specific ground taken by the respondents is that the applicant was served with the chargesheet, during the course of enquiry ample opportunities were given to him to ^{ex}cross-examine the witnesses. On perusal of the findings submitted ^{by} by the enquiry officer and the representation made by the applicant, the disciplinary authority has passed the impugned order for which he has got power. Since the principles of natural justice have not been violated, the Tribunal shall not interfere with the orders of the authority concerned.



3.1 The respondents have also supported the order passed by the appellate authority. The appellate authority has considered all the grounds urged by the applicant in his appeal ^{and what of} the witnesses have deposed before the enquiry officer, and came to conclusion that there are sufficient evidence against the applicant. The marked currency notes were recovered from his possession, sufficient evidence exists that he had demanded and accepted money which is against the provisions of Railway Servants (Conduct) Rules, 1966. When the charges are proved, the appellate authority modified the punishment for which the applicant has to be thankful to the authority.

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

4.1 We have perused the documents submitted by the respondents as per Annexure R-4 which shows that the applicant participated in the enquiry and he cross-examined the witnesses. The disciplinary authority on the basis of the findings and the representation of the applicant imposed the impugned penalty. In the enquiry the witnesses have deposed that the currency was found and recovered from the hands of the applicant which shows that the applicant has accepted the bribe and he has violated the Conduct rules and committed a misconduct. When such an act has been committed by the civil servant, he has lost his faith in the public. Hence the impugned order / punishment awarded is in order. Since the applicant's counsel has argued that the witnesses have deposed in favour of the applicant, the Tribunal cannot re-appraise the evidence and can also not go into the quantum of punishment as has been held by the Hon'ble Supreme Court in its various judgements time and again. He further argued that the disciplinary authority, while passing the impugned order, has not assigned any reason and passed a non-speaking



order. We have perused the order of the disciplinary authority authority's We are convinced that the disciplinary order is a reasoned order. Learned counsel for the applicant has also taken the ground that the punishment awarded is disproportionate to the allegations/charges.

4.2 We have already stated above, that the Tribunal cannot go into the quantum of punishment in view of the various judgements of the Hon'ble Supreme Court.

4.3 We have also gone through the appellate order. The appellate authority after considering the all aspect of the appeal, modified the punishment. Hence, the punishment awarded to the applicant on the basis of the misconduct committed by the applicant is in order.

5. For the reasons stated above, we do not find any infirmity in the orders passed by the appellate authority and the disciplinary authority and, therefore, the O.A. has no merit and is accordingly dismissed with no order as to costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

M.P. Singh
(M.P. Singh)
Vice Chairman

/na/

पृष्ठांकल सं/अं/क्र.....जबलपुर, दि.....

पंजीकृत/अं/क्र.....

(1) सचिव, उपायुक्त, जयपुर, जबलपुर

(2) कार्यपालक, जयपुर/अं/क्र.....के काउंसल

(3) प्रमुख, जयपुर/अं/क्र.....के काउंसल

(4) अध्यक्ष, जयपुर/अं/क्र.....के काउंसल

सूचना एवं आवश्यक कार्यवाही हेतु

Raymond
उप रजिस्ट्रार 10/3/04

Ku M. Dabrayan
HB Shrivastava

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