

20.08.2007

OA No.196/2005

Mr. R.N. Mathur, Counsel for applicant.
None present for the respondents.

Heard the learned counsel for the applicant. The respondents are directed to bring the relevant record pertaining to the inquiry & proceedings against the applicant.

List it on 19.09.2007.

(R.R.BHANDARI)
MEMBER (A)

(KULDIP SINGH)
VICE CHAIRMAN

Later on, Mr. S.S. Hassan, Counsel for the respondents, appeared in this case and argued the matter.

The OA is disposed of by a separate order.

R.Bhandari
(R.R.BHANDARI)
MEMBER (A)

K.Singh
(KULDIP SINGH)
VICE CHAIRMAN

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 20th day of August, 2007

ORIGINAL APPLICATION NO.196/2005

CORAM :

HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN
HON'BLE MR.R.R.BHANDARI, ADMINISITRATIVE MEMBER

Smt.Munni Burman
w/o Shri Murlidharan,
R/o Surendra Bhawan,
In front of Jai Nursing Home,
Behind Agarwal Dharamshala,
Gangapur City,
District Sawai Madhopur
(Rajasthan).

... Applicant

(By Advocate : Shri R.N.Mathur)

Versus

1. Union of India through
General Manager,
West Central Zone,
West Central Railway,
Jabalpur.
2. Chief Medical Director,
West Central Railway,
Jabalpur.
3. Divisional Railway Manager,
West Central Railway,
Kota Division,
Kota.
4. Chief Medical Superintendent,
West Central Railway,
Kota Division,
Kota.

... Respondents

(By Advocate : Shri S.S.Hasan)

Br. Bhandari

ORDER (ORAL)

PER HON'BLE MR.R.R.BHANDARI

Applicant, Smt. Munni Burman, Matron Grade-II, Railway Hospital, Gangapur City, has filed this OA under Section-19 of the Administrative Tribunals Act, 1985, praying for the following relief :

- i) To quash the impugned order of removal from service dated 19.10.2004 (Ann.A/2), issued by the Chief Medical Superintendent, Kota.
- ii) To quash the appellate authority's decision dated 2.4.2005 (Ann.A/1).
- iii) To quash the charge memo dated 5.10.2001 (Ann.A/3).
- iv) Any other relief.

2. Shri R.N. Mathur, learned counsel for the applicant, and Shri S.S. Hasan, learned counsel for the respondents, appeared in this case and argued the matter.

3. The factual matrix of the case are as under :

- i) Applicant, Smt. Munni Burman, was working as Matron Grade-II, Railway Hospital, Gangapur City. On 19.5.2001, she was on duty in the Emergency Ward from 15.00 to 23.00 hrs. On that day, during her duty hours, something happened and she was charged as under :

 - a) She refused to measure blood pressure of a patient when asked to do so by Dr.N.D.Sahu.
 - b) In this context, Dr.Sahu wanted to give her a letter, but she refused to accept or acknowledge the same.
 - c) During her duty hours from 15.00 to 23.00 hrs. in the Emergency Ward, she left the work spot from 20.45 to 21.05 hrs.
 - d) Her behavior with the other colleague employees and doctors is not satisfactory.

R.Bhandari

- ii) A charge-sheet was issued on 5.10.2001, signed by the Senior Divisional Medical Officer, Kota.
- iii) An inquiry was held and the inquiry officer, Dr. M.K.Gupta, conducted the inquiry. The inquiry officer vide his report dated 9.1.2004 (Ann.A/12) inferred that charge No.1 i.e. not measuring the blood pressure is confirmed. Further, charge No.2 that Smt.Munni Burman was not at the work spot from 20.45 to 21.05 hrs. is also confirmed. However, charge No.3 viz. she misbehaved with other fellow employees and doctors is not proved.
- iv) Based upon the inquiry report, the disciplinary authority issued a notice of imposition of penalty of removal from service with immediate effect. This notice is dated 19.10.2004.
- v) Smt. Munni Burman filed an OA No.32/2005 before this very Bench of the Tribunal. The said OA was disposed of by a Division Bench of this Tribunal on 4.2.2005. The Tribunal's order was; "Accordingly, without going into merit of the case, we are of the view that the Appellate Authority to decide the appeal of the applicant dated 15.11.2004. Accordingly, Respondent No.2 is directed to decide the appeal of the applicant by passing a reasoned and speaking order within a period of two months from today and communicate the decision to the applicant within ten days thereafter."
- vi) In pursuance of the Tribunal's order dated 4.2.2005, the appellate authority i.e. Chief Medical Director passed a speaking order dated 2.4.2005 (Ann.A/1) and confirmed the punishment imposed by the disciplinary authority.

4. We have gone through the entire case. The learned counsel for the applicant, in addition to mentioning various points, brought out that for such

Ershandar

a minor offence i.e. (i) not measuring blood pressure of a patient, and (ii) not available on the work spot for mere 20 minutes, the punishment of removal from service is too severe and disproportionate to the offence, even if it is assumed that the offence was committed by the applicant. The other grounds challenging the impugned orders were not pressed.

5. A catena of judgments bring out that Courts or the Tribunals should normally not intervene in the matter of disciplinary and appellate cases unless; (i) rules are not followed, (ii) the inquiry is vitiated, (iii) there are mala fide intentions, and (iv) the punishment imposed is highly disproportionate with respect to the offence.

6. In the facts and circumstances of the present case, we find it one of those rare cases where punishment appears to be too severe with respect to the offence. The offence committed by the applicant could have been a result of some altercation.

7. We feel that the ends of justice will be met if the present case is remitted back to the disciplinary authority by quashing the impugned order of removal from service dated 19.10.2004 (Ann.A/1). Ordered accordingly. The disciplinary authority may impose any punishment other than (i) dismissal from service (ii) removal from service, or (iii) compulsory retirement, in proportion to the offence committed by the applicant.

8. The OA is partly allowed as such, with no order as to costs.

R.R.Bhandari
(R.R.BHANDARI)
MEMBER (A)

Kuldip Singh
(KULDIP SINGH)
VICE CHAIRMAN