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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET
ORDERS OF THE TRIBUNAL

30.10.2009

OA No.259/2005

Mr. Pradeep Asthana, counsel for applicant
Mr. G.C.Gupta, proxy counsel for
Mr. S.P.Sharma, counsel for respondents

At the request of the learned counsel for the applicant, let the matter be listed on 10.11.2009.

(B.L.KHATRI)
Admv. Member

(M.L.CHAUHAN)
Judi. Member

R/
10-11-2009

Mr. Pradeep Asthana, Counsel for applicant
Mr. Ganesh Chandra Gupta, Proxy Counsel for
Mr. S.P. Sharma, Counsel for respondents

Heard learned Counsel for the parties.
For the reasons dictated separately,
the OA is dismissed.

(B.L.Khatri)
M(A)

(M.L.Chauhan)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 10th day of November, 2009

ORIGINAL APPLICATION No.259/2005

Gordhan Singh
s/o Shri Bhajori Lal,
Gangman at Gang No.14
Under PWI, Mandelgarh, Rajasthan,
presently residing at House of Bhima Jamadar,
Purohit Ji Ki Tapari,
Kota Junction, Kota.

.. Applicant

(By Advoate: Shri Pradeep Asthana)

Versus

1. The Union of India through
General Manager (Establishment),
Western Central Railway,
Jabalpur.
2. The Divisional Railway Manager,
West Central Railway,
Kota Junction,
Kota.
3. The Sr. Divisional Engineer,
Through Divisional Railway Manager,
West Central Railway,
Kota Junction,
Kota.

.. Respondents

(By Advocate: Shri G.C.Gupta, proxy counsel for Shri S.P.Sharma)

ORDER (ORAL)

The applicant has filed this OA against the order dated 8.3.1999 (Ann.A/12) whereby pay of the applicant has been fixed on the minimum of pay scale of Rs. 2650/- for 3 years without future

effect and order dated 29.2.2000 (Ann.A/1) whereby appeal of the applicant has been rejected. The applicant has prayed that these orders may be quashed and the respondents may be directed to make payment of arrears of salary and allowances to the applicant along with interest.

2. Briefly stated facts of the case are that the applicant while working as Gangman under the Section Engineer, Mandelgarh was served with SF-5 on account of having remained unauthorized absence from 7.7.1998 to 15.9.1998. The chargesheet was issued to the applicant on 23.9.1998. The applicant vide letter dated 2.12.1998, copy of which has been placed on record (Ann.R/1) admitted that he was alone at home and due to ailing younger brother and son with him he could not intimate the office of answering respondents regarding his absence. It was further requested that in future he will not commit such type of mistake and he may be pardoned. The respondents have also placed on record another letter dated 11.2.1999 wherein the applicant has stated the reasons for his absence as illness of his wife and son who were suffering from Tuberculosis. In this letter which has been placed on record as Ann.R/2 with the reply, the applicant has not mentioned the fact regarding illness of his brother which reason was given by the applicant on earlier occasion. On the basis of the admission made by the applicant, the disciplinary authority imposed punishment which punishment was upheld by the appellate authority. It may be stated here that grievance raised by the

applicant in the appeal before the appellate authority as can be seen from Ann.A/13 was that Article (ii) and (III) of Annexure-I and Annexure-4 was vacant and name of witness has not been mentioned, as such, the applicant has been denied opportunity of being heard and it was not permissible for the disciplinary authority to impose ~~the~~ aforesaid punishment. The appellate authority has categorically stated that since the applicant was imposed a minor penalty after considering his defence, no regular enquiry was required and no witness was to be examined. Thus, appeal of the applicant was dismissed.

3. The respondents have controverted the stand taken by the applicant by filing reply.

4. We have heard the learned counsel for the parties and gone through the material placed on record. Although the applicant has filed certain documents as Ann.A/2, A/3 and A/4 which are UPCs in order to show that he has given information regarding his illness and for not attending the duty, but on the basis of contemporary record placed on record, we are of the view that these documents appears to have been subsequently created.

5. Be that as it may, fact remains that it was not a case of the applicant either before the disciplinary authority or before the appellate authority in appeal that he has sent intimation regarding absence of duty to the authorities from time to time as per aforesaid annexures. Rather, as can be seen from the defence taken by the applicant pursuance to issuance of chargesheet, the applicant was giving different reasons for his absence for duty i.e.

illness of himself and his brother at one occasion and illness of son and wife on account of Tuberculosis at another occasion. Rather the letter dated 2.12.1998 categorically states that he could not give intimation regarding sickness to the authorities. Thus, in view of this admission and the fact that the applicant was imposed a minor penalty, it was not necessary to hold regular enquiry and punishment could have been imposed by the competent authority on the basis of evidence of the applicant. Thus, we see no infirmity in the action of the respondents, whereby the applicant has been imposed the aforesaid punishment. Even otherwise also, the stand taken by the applicant that the allegation of charges should contain name of the witnesses as well as list of documents is wholly misconceived. The requirement of law is that where the department wants to proceed in the matter by holding enquiry, in that eventuality, the chargesheet should contain list of witnesses on the basis of which the charges are required to be proved even in the case of minor penalty chargesheet. However, where the respondent department do not propose to hold enquiry in respect of minor penalty chargesheet, the requirement of law is that only substance of allegation is to be supplied to the delinquent so as to make submission. It is not the case of the applicant that he has requested the authorities to hold a regular enquiry even if minor penalty chargesheet has been issued. Rather from the material placed on record, it is evident that the applicant has admitted his guilt. Thus, in view of the admission made by the applicant on his

own handwriting, we see no infirmity in the action of the respondents whereby penalty has been imposed.

5. The law on this point is no longer res-integra. The Apex Court in the case of Swadesh Pal Baliyan vs. Air Force Commanding-in-Chief, 2005 (1) SLJ 285 has held that unconditional admission can be relied upon and when one has admitted clearly no other proof is required. It was further held that in view of admission during the enquiry it is not necessary to examine in depth details the bald and vague allegations in the explanation submitted more than 4 ½ year later reiterating the confession and the appellant was held guilty of the charges.

Further, the Hon'ble High Court in the case of Rabindra Mohan vs. Union of Territory of Tripura, AIR 1961 Tripura 1 held that when the delinquent admitted the charges and did not want an enquiry it is not necessary under Article 311 of the Constitution or under the CCS (CCA) Rules to hold an enquiry.

Further, in the case of K.Ventateswarlu vs. Nagarjuna Grameena Bank, 1995 (6) SLR A.P. 223 the High Court held that imposition of penalty on the basis of admission of guilt in reply to the charge-sheet is valid and question of inducement and coercion arises only when the confession is made prior to the charge. It was also held that admission made in reply to the charge-sheet in his own handwriting and it must be treated as voluntary and uninfluenced.

6. For the foregoing reasons, there is no merit in this OA, which is accordingly dismissed with no order as to costs.


(B.L.KHATRI)
Admv. Member


(M.L.CHAUHAN)
Judl. Member

R/