

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 09th day of August, 2011

ORIGINAL APPLICATION NO. 199/2009

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Har Lal Meena son of Shri Nehnu Ram, aged about 47 years, resident of Bandikui, District Dausa. At present working as Gatekeeper at Bandikui District Dausa.

.....Applicant

(By Advocate: Mr. Amit Mathur)

VERSUS

1. Union of India through General Manager, North Western Railway, Hasanpura, Jaipur.
2. DRM North Western Railway, Hasanpura, Jaipur.
3. Station Superintendent, North Western Railway, Bandikui, District Dausa.
4. Senior Divisional Traffic Manager, North Western Railway, Jaipur.

.....Respondents

(By Advocate: Mr. R.G. Gupta)

ORDER (ORAL)

The present OA has been filed by the applicant praying for the following reliefs:-

"(A) by an appropriate order the Annexure A/1 to A/4 may kindly be quash and set aside. The respondents may be directed to allow all consequential benefits including the benefits of pay as the impugned order had never been passed.

(B) Respondents may further be directed to pay interest on the due payment and admissible payment to the applicant @ 18% per annum.

(C) By any other relief which is found just fit and proper in the facts and circumstances of the case may very kindly be passed in favour of the applicant by this Hon'ble Tribunal."

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2. Brief facts of the case are that the applicant was posted as Gateman at Bandikui, District Dausa, on 07.05.2007. On that date some woods packets fell at the railway crossing, therefore, it remained closed for sometime and, therefore, the train no. 5270 remained standing at the railway station. For this purpose, a charge sheet was served to the applicant vide order dated 22.05.2007 (Annexure A/2). In the charge sheet, it was alleged that the applicant left the gate unattended which caused the stoppage of the train no. 5270 for a period of 15 minutes at the railway station. The applicant filed the reply on 16.06.2007. However, without considering the reply filed by the applicant, the order of punishment 07.09.2007 (Annexure A/3) was passed. Against the order of punishment dated 07.09.2007, an appeal was preferred by the applicant and while disposing of the appeal filed by the applicant, the Appellate Authority reaffirmed the finding of the Disciplinary Authority. However, he reduced the punishment from stoppage of increments from two to one year vide order dated 28.04.2008 (Annexure A/4). The Appellate Authority has passed the order without discussing the contentions raised in the appeal. Against the order passed by the Appellate Authority, the applicant submitted a revision petition. However the same was also rejected by the Revising Authority vide order 19.01.2009 (Annexure A/1). The applicant thereafter preferred a petition before the Divisional Manager. However, the same was also rejected being inadmissible.

3. The applicant has stated that the impugned orders passed by the respondents are illegal, arbitrary and unjust and, therefore, the present OA deserves to be allowed. The applicant has stated that the respondents have passed the order of punishment without discussing

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the misconduct, mentioning the inquiry and the reasoning for the imposition of the punishment. The orders passed by the authorities are non speaking and, therefore, the same are not sustainable in the eyes of law. It is the basic principle of the departmental inquiry to discuss the evidence brought before it or if no evidence is brought before it then to prove the charges which has been leveled against the employee. In the present case, these prepositions of law were not followed and straightaway the punishment order was passed. Therefore, the applicant has prayed that the OA be allowed.

4. The respondents have filed their reply. In their reply, they have stated that the applicant was posted on 07.05.2007 at railway station Bandikui on the post of Gatekeeper and at the time of arrival of train no. 5270, he left the duty place and went somewhere else, on account of which the said train got late by 15 minutes. The applicant was issued Memorandum dated 22.05.2007 and in reply, the applicant submitted his representation dated 11.06.2007 to the competent authority. The competent authority after due consideration over the representation of the applicant dated 11.06.2007 and keeping in view the material on record held the delinquent employee, applicant, liable to negligence and issued NIP dated 07.09.2007 (Annexure A/3) whereby the applicant was awarded punishment of placing at one lower stage of his present time scale for a period of two years without future effect. The respondents have also stated that in the past also, there have been such complaints against the applicant. Looking to the nature of misconduct, no detailed inquiry was required. Therefore, after considering the reply submitted by the applicant, the competent authority passed the reasonable punishment against the applicant of

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placing him at the lower stage of time scale for two years without future effect, which was reduced to one year without future effect under appellate order (Annexure A/4). The respondents have further stated that the applicant deliberately has neither filed copy of the representation dated 16.06.2007 nor copy of the revision petition since the contents of both the documents are contradictory to each other.

5. The respondents have also stated that the applicant preferred an appeal before the Appellate Authority against the punishment order. The Appellate Authority confirmed the finding of the Disciplinary Authority. However, the punishment was reduced from stoppage of increment from two years to one year. Against the order of Appellate Authority, the applicant filed revision petition before Respondent no. 4. The Revising Authority vide its order dated 19.01.2009 (Annexure A/1) rejected the revision petition filed by the applicant. Thus according to the respondents, full opportunity of hearing was given to the applicant and the present OA has no merit and, therefore, is liable to be dismissed with costs.

6. Heard the learned counsel for the parties and perused the documents on record. Learned counsel for the applicant stated the facts as submitted in the OA. He further argued that the order passed by the Disciplinary Authority is non speaking order and is vague. The Disciplinary Authority in its order has no where stated that the charges against the applicant have been proved and it is a cryptic order and no reasoning has been given for awarding the punishment to the applicant and, therefore, prayed that this order be quashed and set aside.

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7. Learned counsel for the respondents argued that the applicant left the place of his duty without permission and without any reason. He further argued that there is no provision of inquiry in the case of minor penalty and, therefore, after considering the reply submitted by the applicant, the competent authority had passed the order of punishment dated 07.09.2007 (Annexure A/3), which is quite reasonable and the quantum of punishment has been reduced by the Appellate Authority. Therefore, the action of the respondents is as per rules and this OA has no merit and, therefore, it needs rejection.

8. Having heard the rival submission of the parties and perusal of the documents on record, I am of the view that the order passed by the Disciplinary Authority dated 07.09.2007 (Annexure A/3) is neither a reasoned order nor a speaking order. The Disciplinary Authority has not proved the charges against the applicant. It is a well settled preposition that the Disciplinary and Appellate Authorities etc. perform quasi judicial functions while exercising disciplinary powers in departmental proceedings. Therefore, it is necessary for them to pass reasoned and speaking order especially while imposing punishment. The Disciplinary Authority while imposing the penalty must apply its mind to the facts, circumstances and records of the case and then record its findings on each imputation of misconduct or misbehaviour. This Disciplinary Authority should give brief reasons for its findings to show that it has applied its mind to the case. In the present case, I am of the view that the Disciplinary Authority had passed a non speaking and cryptic order. He has not even stated whether the charges are proved against the applicant and, therefore, such order is liable to be

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quashed. Therefore, I quash the punishment order dated 07.09.2007 (Annexure A/3). Since the Appellate Authority's order dated 28.04.2008 (Annexure A/4) and Revising Authority's order dated 19.01.2009 (Annexure A/1) is also based on the order passed by the Disciplinary Authority, the same are also quashed and set aside. However, the respondents are at liberty to pass fresh orders in accordance with provisions of law.

9. With these observations, the OA is disposed of with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

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