

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH,  
JAIPUR.

*Jaipur, the 2<sup>nd</sup> day of August, 2011*

**ORIGINAL APPLICATION No.255/2010**

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER

M.K.Jangid,  
Station Master,  
Mandal,  
Bhilwara.

... Applicant

(By Advocate : Shri B.R.Vashisth, proxy counsel for  
Shri Prahlad Sharma)

Versus

1. Divisional Railway Manager,  
North Western Railway,  
Ajmer.
3. Senior Divisional Operating Manager,  
North Western Railway,  
Ajmer.

... Respondents

(By Advocate : Shri R.G.Gupta)

**ORDER (ORAL)**

The applicant has filed this OA feeling aggrieved by the order dated 23.12.2009 (Ann.A/1), whereby he has been held guilty for the misconduct and a penalty of withholding increment for three years has been imposed upon him. Thereafter, the appeal filed by the applicant before respondent No.3 has also been rejected vide order dated 6.4.2010 (Ann.A/2).

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2. The applicant was issued a charge-memo on 16.11.2009 (Ann.A/3), wherein he was charged for sleeping at the time of duty. It was mentioned in the charge-sheet that on 27.10.2009 when the Chief Marking Inspector came at the station at night for sudden inspection, the applicant was found sleeping, which is negligence in service on the part of the applicant under the provisions of Rule-3.1 of the Railway Servants (Conduct) Rules, 1966. The applicant was required to submit representation against the above charges within a period of ten days from the date of receipt of the said memorandum. The applicant submitted a detailed representation before respondent No.3, in which the charges levelled against him were specifically controverted and it was submitted that on 27.10.2009 a train [No.2966] passed away near about 12.30 and the charge regarding sleeping of the applicant is for the time 12.37, which is not possible in a usual manner. Even otherwise also, it is not possible for the applicant to sleep in the office chamber as there is no space to sleep a person as it has very narrow space. Even an extra chair cannot be put in the office chamber of the applicant. It was also stated in the representation that Mr.Verma was having malice intention with the applicant and, therefore, he misbehaved with the applicant and submitted false complaint before the higher officers. In view of the above averments, it has been prayed that the charges levelled against the applicant are false and hence he may be exonerated of the alleged charges.

3. The applicant has further submitted that without going into the merit and holding proper and fair inquiry, respondent No.3 passed the impugned order dated 23.12.2009 (Ann.A/1), holding the applicant guilty of the charges mentioned in Ann.A/3 and imposing penalty for withholding of increment for the next three years. Being aggrieved by the said order (Ann.A/1), the applicant submitted an appeal before respondent No.2 in which the penalty order (Ann.A/1) has been specifically challenged. However, the appeal filed by the

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applicant has been rejected vide order dated 6.4.2010 (Ann.A/2). Hence, the applicant has filed this OA praying for the aforesaid relief.

4. The respondents have filed their reply stating that the applicant was found sleeping during his duty hours when a surprise checking was conducted by the Chief Signal Inspector [Sr.Section Engineer (Signal)] and the Commercial Inspector [CMI]. As per the facts of the case, the disciplinary authority has correctly imposed the penalty for withholding the increment for a period of three years without future effect (Ann.A/1). Subsequently, the applicant submitted his appeal (Ann.A/6). The appellate authority, after considering the appeal of the applicant, passed order dated 6.4.2010 (Ann.A/2) rejecting the appeal and upholding the order passed by the disciplinary authority. The respondents have denied that the Chief Signal Inspector had any malice against the applicant. In fact, the Chief Signal Inspector alongwith the Commercial Inspector had conducted a joint inspection, during which the applicant was found sleeping in his duty hours. The said inspection cannot be treated as a complaint against the applicant because the fact is not disputed that the applicant was found sleeping during his duty hours, which is against the safety rules and could cause damage not only to the railway property but also endangers precious life of the railway passengers. Submission of the applicant that train No.2966 reached Dhuwala Station at 0030 hours and the CSI/CMI Bhilwara came in the Station Master's office at 0037 hours is totally baseless and false, whereas the fact is that train No.2966 originates from Udaipur City Station and terminates at Gwalior Station as per the scheduled time table, which reads as under :

K.M.	Station	Intermediate distance	Arrival Time	Dept. time
0	Udaipurcity	-	-	22.20
4	Ranapratap Nagar	4	22.25	22.27
43	Mavli Jn.	39	23.05	23.07

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115/193	Chittaurgarh	72	00.15	00.35
246	Bhilwara	53	01.21	01.26
257	Mandal	11	Passing through	*
	Dhuwala	06	Passing through	*

From the above, it is clear that train No.2966 is neither stopped at Mandal Station nor go through running from Mandal Station at 0030 hours. Train No.2966 left from Bhilwara at 0126 hours and stopped at Ajmer Station at 0345 hours. From the above position, it cannot be disputed that the applicant was sleeping at 0042 hours when CSI/CMI had jointly conducted the surprise inspection. Thus, the disciplinary authority has correctly imposed the penalty of withholding of increment for three years without future effect. As per the facts of the case, it was proved that the applicant was found sleeping during his duty hours at the midnight. The appellate authority has correctly considered the appeal of the applicant and has rightly upheld the decision of the disciplinary authority. The charge of sleeping is a serious misconduct of an employee, who is working as a Station Master under the safety rules.

5. Heard learned counsel for the parties and perused the documents on record. Learned counsel for the applicant reiterated the averments made in the OA. He further argued that respondent No.3 did not conduct proper and fair inquiry about the matter prior to passing the impugned order. That prior to passing the penalty order, no opportunity of personal hearing and producing the relevant evidence was granted to the applicant, whereas according to Rule-9 & 10 of the Railway Servants (Discipline and Appeal) Rules, 1968, proper inquiry was to be conducted. The order dated 23.12.2009 (Ann.A/1) has been passed on the basis of conjectures and surmises. Respondent No.2 has arbitrarily ignored the contentions raised by the applicant in the appeal and hence the appellate order dated 6.4.2010 (Ann.A/2) is not legally sustainable. Learned counsel for the applicant, therefore, prayed that the penalty

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order dated 23.12.2010 (Ann.A/1) and the appellate order dated 6.4.2010 (Ann.A/2) may be quashed and set aside.

6. On the contrary, learned counsel for the respondents argued that the orders passed by the disciplinary authority dated 23.12.2010 (Ann.A/1) and the appellate authority dated 6.4.2010 (Ann.A/2) are as per rules. Before imposing the penalty, the disciplinary authority personally heard the applicant on 30.11.2009. Regarding Rules-9 & 10 of the Railway Servants (Discipline and Appeal) Rules, 1968, it was argued that these rules are not applicable in the case of the applicant because Rules-9 & 10 are for imposing major penalty. Rule-10 is for action on the inquiry report. The charge-sheet dated 16.11.2009 (Ann.A/3) is for minor penalty and has been issued under Rule-11 of the Railway Servants (Discipline and Appeal) Rules, 1968. In minor penalty cases, where the disciplinary authority is satisfied for the reasons then it is not necessary to hold inquiry in the manner provided in the rules. In the minor penalty cases, the penalty can be imposed on the basis of facts of the case. It is further argued that the applicant was found sleeping during his duty hours in the night when the joint surprise inspection was conducted by the CSI/CMI. He further argued that train No.2966 did not pass at 0030 hours from the station where the applicant was posted but in fact the said train passed at 0145 hours. In the circumstances, the OA deserves to be dismissed.

7. Having heard the rival submissions of the parties and having perused the documents on record, I am of the view that there is no ground for interference by this Tribunal in this case as proper procedure has been followed by the respondents in imposing the penalty. The applicant was found sleeping during duty hours by a joint inspection team, which is against the safety rules. Learned counsel for the applicant has not been able to prove as to what irregularity and illegality has been committed by the disciplinary authority in passing the impugned penalty order.

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8. In view of the above discussion, the present OA stands dismissed being devoid of merit with no order as to costs.

*Anil Kumar*  
(ANIL KUMAR)  
MEMBER (A)

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