

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 7.10.2015

OA No.423/2012

Mr. Nand Kishore, Counsel for the applicant.

Mr. Anupam Agarwal, Counsel for respondents.

Heard the Ld. Counsel for parties.

The OA is filed seeking following reliefs:-

" (i) That the orders dated 20.7.2011 (Ann.A/1) vide which penalty was imposed as well as memorandum of charge sheet dated 11.11.2005 (Ann.A/2) , Appellate Authority's order dated 4.11.2011 (Ann.A/3) and Revisional Authority order dated 19.4.2012 (Ann.A/4). may kindly be declared bad in law, arbitrary, capricious and quashed and set aside.

(ii) The respondents may further be directed to treat the applicant on his original position obtaining before issue of charge sheet dated 11.11.2005.

(iii) That the respondent may further be directed to decide the suspension period from 28.4.2006 to 19.7.2011 (when the applicant was taken on duty) on duty and payment of salary and other consequential service benefit may be arranged by them with interest."

2. Annexure A/2 is the charge memo. Three charges are leveled against the applicant which are extracted below:-

(i) Shri G.W.Sharma, Head Clerk committed serious gross misconduct in as much as that-

He used first class DCP No.230 which was in his possession. He got reservation on card pass No.230 ex. KTT to JBP on 13.10.05 in train No.1470.

(ii) He again misused Card pass No.230 in Train No.1469 dtd. 14.10.05 Ex. JBP to KTT.

(iii) He had left the Hd. Qr. Without permission of competent authority.

The Memo was issued to the delinquent employee intimating him that he failed to maintain absolute integrity and exhibited in such a manner unbecoming of a Railway servant and thereby contravened Rule 3.1(i) (ii) (iii) of Railway Service Conduct Rules and Rule 13 of Railway Servant pass Rules, 1986. Originally the disciplinary authority conducted the inquiry and Inquiry Officer after conducting the inquiry found that charge No.1 and 2 have not been proved. The only charge that the applicant left the HQ without permission has been found to be proved.

3. The respondents in their reply inter-alia stated that leaving the HQ without permission is not a trifling matter. It is also denied that the applicant acted in ignorance. It is contended that the applicant submitted his casual leave application without seeking permission to leave the headquarter and he proceeded leaving the Headquarter without permission of the competent authority. The respondents contended that the delinquent employee showed disregard towards the instructions of his superior and the same is in violation of conduct rules.

4. It is true that the applicant is duty bound to leave the HQ with permission of the competent authority. It is contended by the Ld. Counsel for applicant that the Govt. employee cannot be charged for leaving the HQ without making the application to leave the HQ sanctioned. The disciplinary authority has imposed the penalty of Reduction to a lower Grade Pay of Rs.2800 in PB-1 (Rs.5200-20200) for a period of three years with future effect and with loss of seniority. He will not earn any increment while he works in lower grade pay. This order was confirmed by the appellate authority and as well as by the revisionary authority.

5. We have examined the relevant record on the issue. It is not disputed that one day casual leave was applied by the applicant dated 13.10.2005. In the defence statement it is further stated that he could not obtain permission to

leave the HQ as the office was closed after 1800 hours. The disciplinary authority as well as the appellate and revisional authorities found the applicant in default for not seeking permission to leave the HQ.

6. It is true that leaving the HQ without permission is not a trifling matter. We do not find any reason to interfere with the findings regarding misconduct on the part of delinquent employee. At the same time we find that the punishment is not proportionate to the charge proved. We find that leaving HQ without permission is an act of misconduct but imposition of the punishment of reduction to a lower Grade Pay of Rs.2800 in PB-1 (Rs.5200-20200) for a period of three years with future effect and with loss of seniority invites serious civil consequences. We have noticed that it is the only instance of misconduct alleged against the delinquent employee. The incident occurred during 2005, therefore, we feel that remitting the matter at this stage to the disciplinary authority for modifying the punishment will not serve the ends of justice. Keeping in view of the circumstances we are of the view that punishment imposed in order Ann.A/1 should be modified. We therefore, impose the stoppage of one increment without cumulative effect for one year. It is made clear that penalty is thus modified to the stoppage of one increment for a period of one year. In the light of modification made, the Ann.A/1, A/3 and A/4 stand modified to that extent.

7. It is made clear that regularization of the suspension period and consequential benefits, are matters for the respondent No.3 to pass an appropriate order. No order as to costs.


(MS.MEENAKSHI HOOJA) MEMBER(A)


(JUSTICE HARUN-UL-RASHID) MEMBER(J)

Adm/