

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 28.01.2014

OA No. 216/2013

Mr. Nand Kishore, counsel for applicant.
Mr. Tanveer Ahmed, counsel for respondent nos. 1 to 3.
Mr. Sajid Ali, counsel for respondent no. 4.

Heard learned counsel for the parties.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.


(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Kumawat

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION NO. 216/2013

Jaipur, the 28th day of January, 2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Suwa Lal Meena son of Ram Ratan Meena, aged about 45 years, working as Assistant Divisional Cashier, Kota Division, W.C. Railway, Kota, resident of 332, Keshopura Sector-6, Kota (Rajasthan).

... Applicant

(By Advocate: Mr. Nand Kishore)

Versus

1. Union of India through General Manager, West Central Railway, Jabalpur (M.P.).
2. Financial Advisor and Chief Accounts Officer, West Central Railway, Jabalpur (M.P.).
3. Senior Divisional Finance Manager, West Central Railway, Kota.
4. Shri Sudhakar Sakorikar, Senior Cashier, West Central Railway, Kota through Senior Divisional Finance Manager, West Central Railway, Kota.

... Respondents

(By Advocate: Mr. Tanveer Ahmed – Respondent nos. 1 to 3
Mr. Sajid Ali – Respondent no. 4.)

ORDER (ORAL)

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

- "(i) The impugned memorandum of charges dated 29.07.2011 (Annexure A/1), penalty order dated 29.09.2011 (Annexure A/3) and Appellate Authority order dated 06.12.2012 (Annexure A/6) communicated through letter dated 14.12.2012 may kindly be declared as bad in law and arbitrary and same may be quashed and set aside.
- (ii) Any other direction and orders, which are deemed proper in the facts and circumstances of the case may kindly be allowed to the applicant."

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2. The brief facts of the case, as stated by the learned counsel for the applicant, are that the applicant was served with a Memorandum of charge dated 29.07.2011 under Rule 11 of the Railway Servants (Discipline & Appeal) Rules, 1968. The allegation against the applicant was that he was issued a money receipt No. 383001 to 383100. He did not submit this money receipt with the office of the Divisional Cashier. Thus the applicant did not perform his duty with full devotion and thereby violated Rule 3.1(ii) of the Railway Service (Conduct) Rules, 1966.

3. The applicant submitted the defense to the respondent no. 3 vide his representation dated 12.08.2011, denying the charges and submitted that the money receipt book in question was handed over to private respondent no. 4. As proof of handing over of the receipt, he also submitted a certified copy of Receipt No. 383085 (duplicate) issued by private respondent no. 4. From the perusal of this duplicate receipt, it is clear that the receipt dated 23.12.2009, which was issued by the applicant has been verified by respondent no. 4 under his signature. Had the money receipt in question been misplaced by the applicant, there was no question of issuing a certified duplicate copy of the same by respondent no. 4. The applicant had handed over the charge to private respondent no. 4 on 29.12.2009 while the duplicate copy has been issued by respondent no. 4 in the month of February, 2010.

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4. However, the defense submitted by the applicant was not considered by respondent no. 3 and he imposed the penalty upon the applicant of withholding of one year increment without future effect vide speaking order dated 29.09.2011 (Annexure A/3).

5. Being aggrieved by the decision of the Disciplinary Authority, the applicant submitted an appeal to respondent no. 2. The Appellate Authority rejected the appeal of the applicant vide order dated 06.12.2012 on baseless grounds (Annexure A/6). The decision of the Appellate Authority is arbitrary, bad in law, malafide and with the intention to spoil the career of the applicant.

6. The learned counsel for the applicant submitted that there was no negligence on the part of the applicant. The punishment awarded to the applicant is perverse and without any evidence. The Appellate Authority has also not followed the provisions of Rule 22 of the Railway Servants (Disciplinary & Appeal) Rules, 1968. Therefore, he argued that the penalty order, Appellate order and charge memo be quashed and set aside.

7. On the other hand, learned counsel for the official respondents stated that the charge sheet was issued to the applicant in accordance with the law. The applicant was given an opportunity to represent against the charge memo. He submitted

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his representation, which was duly considered by the Disciplinary Authority. The applicant did not hand over MR Book to the Divisional Cashier. He did not submit any documentary evidence of handing over the MR Book to the Cashier. Thus negligence has been committed on his part. The Divisional Commissioner has given a written note to the applicant to deposit the MR Book but the applicant has not deposited the same.

8. The Disciplinary Authority after considering all the material available on record, the representation of the applicant and other important aspect of the matter has rightly held the applicant responsible for the negligence of the performance of the duties and works and hence imposed the penalty of withholding of one year increment without future effect. The applicant being aggrieved preferred an appeal before the Appellate Authority. The Appellate Authority also considered the facts and points raised in the appeal and found the appeal had no merit and, therefore, he confirmed the penalty order.

9. The learned counsel for the respondents argued that there was no irregularity/ illegality in the action taken by the respondents. Thus the OA has no merit and it should be dismissed with costs.

10. The learned counsel for private respondent no. 4 submitted that money receipt in question was never handed to private respondent no. 4 by the applicant. He drew my attention

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to letter dated 09.04.2013 (Annexure R-4/1), issued by Senior Divisional Finance Manager in which it has been stated that the applicant was issued total 20 money receipt Book between 26.08.2009 and 28.12.2009. Out of which 18 money receipts were returned by the applicant and one running money receipt was handed over to private respondent no. 4. In the same letter, it has been stated that money receipt No. 383001 to 383001 appears (typographical error) should read 383001 to 383100 was not deposited with the Divisional Cashier, who has written a letter to this effect to the applicant.

11. The learned counsel for private respondent no. 4 admitted that private respondent no. 4 had issued a duplicate copy of receipt No. 383085, which was mistake on his part. In fact, he had issued duplicate copy of this receipt after verifying the facts from the register rather than verifying it from the original money receipt book and for this lapse on his part, he has also been penalized by the respondents. The penalty of withholding of one increment for one year without future effect has been imposed on him. The money receipt book in question was never handed over to private respondent no. 4.

12. Heard the learned counsel for the parties and perused the documents on record. The applicant was issued the charge memo dated 29.07.2011 (Annexure A/1). I do not find any infirmity/illegality in the issuance of the charge memo. The applicant was given an opportunity to represent his case. The

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applicant availed this opportunity by filing the representation and denying the charges leveled against him. The Disciplinary Authority after considering all the material facts on record and the representation of the applicant, imposed the penalty on the applicant vide order dated 29.09.2011 (Annexure A/3). It is a speaking and reasoned order. I do not find any illegality/infirmity in the letter passed by the Disciplinary Authority.

13. Being aggrieved by the order of the Disciplinary Authority, the applicant preferred an appeal. The Appellate Authority after considering the appeal of the applicant and other relevant facts on record confirmed the penalty awarded by the Disciplinary Authority to the applicant. The order of the Disciplinary Authority dated 06.12.2012 (Annexure A/6) is a speaking and reasoned order. While considering the appeal, the Appellate Authority has also considered the points raised by the applicant that the duplicate copy of one receipt No. 383085 was issued by the private respondent no. 4 and he is not convinced by the averments made by the applicant that he had handed over money receipt book in question to private respondent no. 4. I do not find any illegality/infirmity in the order passed by the Appellate Authority. The learned counsel for the applicant has failed to prove the allegation of mala fide against the Appellate Authority.

14. The learned counsel for the applicant emphasized on the point that duplicate copy of receipt No. 383085 was issued by

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private respondent no. 4. Therefore, it proves that he had handed over the money receipt book in question to private respondent no. 4. On the contrary, private respondent no. 4 admitted that he had committed a mistake of issuing a duplicate copy of receipt No. 383085 without verifying it from the original receipt book. He also submitted that for this lapse, he has also been penalized by stopping of one increment for one year without future effect. Therefore, I am of the opinion that the averments of the learned counsel for the applicant that the applicant handed money receipt book to private respondent no. 4 cannot be accepted. The private respondent no. 4 has been penalized for the lapse on his part of issuing duplicate money receipt No. 348085 without verifying it from original MR Book. Therefore, on the basis of above discussion, I do not find any merit in the OA.

15. Consequently, the OA being devoid of merit is dismissed with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

AHQ