

**Central Administrative Tribunal  
Principal Bench  
New Delhi**

OA No.1737/2012

Order Reserved on:01.03.2016

Pronounced on:22.04.2016.

**Hon'ble Mr. Justice M.S. Sullar, Member (J)  
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Govind Prasad Sharma,  
S/o Shri Raghu Nath Prasad,  
Diesel Fitter-1, Diesel Shed,  
Northern Railway, Tughlakabad,  
New Delhi  
R/o Govind Prasad Sharma,  
B-50, Budh Vihar,  
Tajpur Pahari,  
Badarpur,  
New Delhi.

-Applicant

(By Advocate Shri G.D. Bhandari)

***-Versus-***

1. Union of India through  
The General Manager,  
Baroda House, N.R.  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi.
3. Sr. Divisional Mechanical Engineer (DSL)  
Diesel Shed,  
Northern Railway,

Tughlakabad,  
New Delhi.

-Respondents

(By Advocate Shri Satpal Singh)

**O R D E R**

**Mr. K.N. Shrivastava, Member (A):**

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985. The specific reliefs prayed for in the OA read as under:

- “i) Set aside and quash the impugned orders dated 4.3.2010, 20.04.2010 and punishments orders/ reviewing authority orders, being badly vitiated as aforesaid.
- ii) Direct Command the respondents to restore the original seniority of the applicant vis-a-vis juniors as on the expiry of the punishment period the applicant’s original seniority cannot be lowered down.
- iii) Direct/Command the respondents to give the resultant promotions of the applicant as Tech III, II and I after so restoring the seniority of the applicant, assigned to him in the fitter category of Diesel cleaner with all consequential benefits of pay fixation and payment of the resultant arrears with 24% interest from the due date to the date of actual payment.
- iv) Direct any other relief deemed fit and proper in the facts and circumstances of the case, may also be granted in favour of the applicant alongwith heavy costs against the Respondents, in the interest of justice.”

2. The brief facts of this case are as under.

2.1 The applicant was appointed as a Diesel Cleaner, Group 'D' in the Loco department of the Northern Railway on 05.08.1983 and was posted at Ludhiana shed of Firozpur Division. He was getting his promotion regularly and finally in March, 2010 he was promoted to the post of Fitter Grade-I. A complaint was received against the applicant that he has married one Smt. Malti without divorcing his first wife Smt. Neelam Kumari. The respondents ordered a fact finding enquiry by Shri Paramjeet Ahluwalia, who submitted his report on 04.04.1989 in which, prima facie, the charge was found to be true. The Enquiry Report recommended departmental action against the applicant based on the available evidence. He was served with Annexure A-7 charge-sheet dated 15.09.1989 for imposition of major penalty. The article of charge reads as under:

**“STATEMENT OF ARTICLES OF CHARGES:**

“That the said Shri Govind Prasad Sharma, S/o Shri Raghu Nath Prasad Del. Cleaner T.No.486 of Del. Shed TKD reported to have committed a serious offence by solemnizing dual marriage with Malti D/o Shri Bansi Dhar resident of Bajne Khas without divorcing legally his first wife Smt. Neelam Kumar Shri Niranjan Lal Dixit resident of Badaich, Dist.

Mathura, thus violating Rule 3.1 sub para (i)(ii) of the Railway Service Conduct Rules, 1966.

2.2 The applicant did not participate in the enquiry. The Enquiry Officer (EO), Shri R.G. Garg proceeded ex-parte against the applicant and in his report dated 20.09.1994, held that the charge against the applicant is proved. The relevant extract of the enquiry report is reproduced below:

“Thus I hold Sh. Govind Pd. Sharma, S/o Sh. Raghu Nath Parsad Sharma DSL Cleaner, T.No.486 fully responsible for the offence of Solemnising dual marriage with Smt. Malti Devi without divorcing his first wife Smt. Neelam Kumari, thus violated Rule 3-1 sub-para (i)(iii) of Railway Service Conduct Rules, 1966.”

2.3 The applicant was placed under suspension w.e.f. 08.05.1989. The Disciplinary Authority (DA), accepting the ibid EO's report, passed the punishment order vide NIP No.125/DSL/10/89 dated 30.09.1994 (Annexure A-1) dismissing the applicant from service w.e.f. 30.09.1994. The applicant made an appeal dated 28.11.1994 before the departmental Appellate Authority (AA). The AA vide his order dated 13.02.1995 (Annexure A-3) dismissed the appeal and upheld the order of dismissal passed by the DA.

2.4 In the meanwhile, the applicant got exonerated from the charge of bigamy in the Court of CJM (IV), Aligarh. He filed a review petition before the Reviewing Authority (RA) on 13.06.1995, enclosing therewith a copy of the order of CJM (IV), Aligarh. The RA vide order dated 21.10.1995, taking cognizance of the fact that the Hon'ble Court has found that the charge against the applicant is found to be untrue, and taking a lenient view in the matter, reduced the punishment from dismissal to that of Withholding of Increments Temporarily (WIT) for five years on cumulative basis. Pursuant to the Annexure A-4 order of the RA, the ADRM/OP New Delhi vide his order dated 20.04.2010 (Annexure A-5) informed the applicant that his suspension period from 08.05.1989 to 29.09.1994 and the intervening period from dismissal to reinstatement from 30.09.1994 to 25.10.1995 is treated as 'leave due' under rule 1343 (4) & (5) IREC Vol.II. Prior to issuing Annexure A-5 communication, the ADRM/OP had sent an intimation dated 04.03.3010 (Annexure A-24) to the applicant that his period of suspension and intervening period from dismissal to reinstatement are intended to be treated as leave due

under rule 1343 (4) & (5) IREC Vol.II and he was called upon to submit his representation within 15 days against the intended decision of the respondents.

2.5 The applicant has filed this OA praying for setting aside the Annexure A-24 and Annexure A-5 communications from the respondents to him with regard to treating as 'leave due' the suspension period (from dismissal to reinstatement) from 08.05.1989 to 29.09.1994 and the intervening period from 30.09.1994 to 25.10.1995.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The applicant filed his rejoinder thereafter. After the pleadings were complete, the case was taken up for hearing of arguments on 01.03.2016. Shri Ashish Nischal, learned counsel for the applicant and Shri Gyanendra Singh, learned counsel for the respondents argued the case.

4. The learned counsel for the applicant, besides highlighting the issues raised in the OA and the rejoinder, submitted that the applicant has been acquitted of the charge of bigamy by the competent court of law and as such he is entitled for grant of all his prayers made in the

OA in terms of treating his suspension period as well as the intervening period from dismissal to reinstatement as periods spent on duty. He submitted that the impugned Annexure A-24 and Annexure A-5 communications from the respondents to the applicant are bad in law and deserve to be quashed and set aside. The learned counsel pleaded that the applicant would also be entitled to consequential benefits in terms of restoration of his original seniority, promotion etc.

5. Per contra, the learned counsel for the respondents submitted that the acquittal of the applicant from the charge of bigamy by the criminal court is not an honourable acquittal; it is based on a compromise and as such the applicant is not entitled for the reliefs that he has prayed for in the OA. Hence the impugned Annexure A-5 and Annexure A-24 communications from the respondents to the applicant are absolutely justiciable.

6. Replying to the submission of the learned counsel for the respondents, the learned counsel for the applicant submitted that even before the criminal trial could start, meanwhile the compromise was reached and hence the

acquittal granted should be treated as honourable acquittal.

7. We have considered the arguments put-forth by the learned counsel for the parties and also perused the pleadings and the documents annexed thereto. The applicant was subjected to a disciplinary enquiry on the basis of the grave charge of bigamy against him. Admittedly, he has been acquitted of the said charge by the criminal court on the basis of a compromise reached. As such, the acquittal cannot be called as an honourable acquittal. We are of the view that the respondents have already taken a very lenient view in terms of the RA passing the Annexure A-4 order dated 21.10.1995 reducing the punishment of dismissal to that of imposition of WIT for five years on cumulative basis. We also feel that Annexure A-24 and Annexure A-5 communications from the respondents to the applicant are also in order and they do not require any kind of interference from this Tribunal.

8. In view of the foregoing observations, we do not find any merit in the OA and the OA is accordingly dismissed.

9. No order as to costs.

**(K.N. Shrivastava)**  
**Member (A)**

**(Justice M.S. Sullar)**  
**Member (J)**

‘San.’