

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.21/396 of 2018

Date of Order: 22.03.2019

Between:

S. Golla Babu (Group C),
S/o. Satyam, Aged 34 years,
Ex-Helper, T.No. 1168,
Purreyavalasa (Village & Post),
Vizianagaram District – 535 128.

... Applicant

And

1. Union of India represented by
The General Manager,
South Central Railway,
Rail Nilayam, 3rd Floor,
Secunderabad – 500 025.
2. Sr. Divisional Electrical Engineer,
TRS/ELS/BZA, South Central Railway,
Vijayawada Division, Vijayawada.
3. Divisional Electrical Engineer,
TRS/ELS/BZA, South Central Railway,
Vijayawada Division, Vijayawada.
4. Assistant Divisional Electrical Engineer,
TRS/ELS/BZA, South Central Railway,
Vijayawada Division, Vijayawada.

... Respondents

Counsel for the Applicant ... Mr. G. Trinadha Rao

Counsel for the Respondents ... Mrs. Vijaya Sagi, SC for Railways

CORAM:

Hon'ble Mr. Justice L Narasimha Reddy, Chairman

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER
{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}

The applicant was working as Helper II in the Electric Loco Shed, Vijayawada. He was issued with charge memo dt. 09.06.2015 alleging that he has resorted to acts of indiscipline between 15.07.2014 and 13.04.2015. The applicant denied the allegations by submitting explanation. Not satisfied with that, the disciplinary authority ordered inquiry. The inquiry officer submitted a report dt. 04.11.2015 holding that the charge against the applicant is proved. The same was furnished to the applicant and he submitted an explanation to that. The disciplinary authority passed an order dt. 17.02.2016 imposing penalty of removal from service against the applicant. An appeal was preferred to the Divisional Electrical Engineer, and that was dismissed on 27.07.2016. A revision under Rule 25 of Railway Servants (Discipline & Appeal) Rules, 1968 was filed before the Senior Divisional Electrical Engineer, and that was dismissed on 25.04.2017. This OA is filed, challenging the order of punishment, as upheld by the appellate authority and the revision authority.

2. The applicant contends that the then Senior Section Engineer (SSE) was in the habit of harassing lower category staff and deriving pleasure in subjecting them to difficulties. He stated that on 16.04.2015, an order of suspension was passed against him, but on the next day itself, it was revoked when the employees protested. The applicant contends that when almost all the lower category employees submitted a report to the senior administration about the harassment being caused by the SSE, the present charge sheet was issued by referring to certain instances which, in fact, did not take place at all, and even

otherwise, they are very trivial in nature. The applicant further submits that the punishment is uncalled for, if not disproportionate.

3. The respondents filed a detailed counter affidavit opposing the OA. It is stated that the charge against the applicant was inquired into in detail, by adducing oral and documentary evidence and the inquiry officer submitted a report holding that the charge is proved, and that the disciplinary authority has imposed the punishment duly taking into account, gravity of the acts of indiscipline alleged against the applicant.

4. Heard Mr. G. Trinadha Rao, learned counsel for the applicant and Mrs. Vijaya Sagi, learned Standing Counsel for the respondents.

5. The charge memo was issued to the applicant on 09.06.2015. This was preceded by an order of suspension dt. 16.04.2015, but it was revoked on the next day itself. That indicates that very placing the applicant under suspension was uncalled for, or unwarranted. The Memorandum of charge dt. 09.06.2015 reflected only one Article and it reads as under:

“Article-I

Sri S. Golla Babu, while working as Help. II/T. No. 1168/M-6/ELS/BZA, had failed to maintain absolute integrity and devotion to duty, in that he disobeyed supervisors and misbehaved with them as detailed in the statement of imputations.

Thus, Sri S. Golla Babu, had failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of Railway servant and violated Rule 3(1)(i), 3(1)(ii) & 3(1)(iii) of Railway Services (Conduct) Rules, 1966.”

The second paragraph explained above is almost a formality and the act of indiscipline, if at all, is contained in the first paragraph. There again, except

stating that he failed to maintain absolute integrity and devotion to duty and disobeyed superiors and misbehaved, no act as such is mentioned. The statement of imputation of misconduct is meant to elaborate on certain specific acts mentioned in the Article of Charge. In this case, such a mention was not made at all.

6. Assuming that it is not necessary that the specific acts of alleged indiscipline need be mentioned in the Article, let us examine as to what exactly is the elaborate imputation. The immediate next paragraph in the charge memo, after the Article deals with that. Four instances that are said to have taken place between 15.07.2014 and 13.04.2015 are mentioned. The first incident is about the alleged reply by the applicant in “indecent manner”. The second is about ‘misbehaviour’ without even mentioning as to what exactly was the nature of misbehaviour. Third is the alleged ‘aggressive gesture’ and the fourth is about reply being given in a ‘careless manner’. It is no doubt true that a detailed inquiry was conducted and a finding was recorded by the inquiry officer to the effect that the charge is proved. What surprises this Tribunal is, however, that the capital punishment in terms of service law, namely, removal from service was imposed against the applicant for the charges mentioned above.

7. Basically, the charge itself was vague and elaboration was incomplete. Nothing concrete was mentioned and everything was abstract in nature. Even if the expressions such as “misbehaviour” “reply in indecent manner and careless manner” are to be given their ordinary meaning, hardly they constitute the basis for imposing such a harsh penalty.

8. The respondents can certainly reign in their employees, if they resort to acts of indiscipline. However, they are required to maintain objectivity and proportionality. For every lapse on the part of the employee, that too from a lower category, serious punishment depriving him and his family of the entire livelihood cannot be imposed. The doctrine of proportionality comes into play.

9. Therefore, we allow the OA and set aside the order of punishment dt. 17.02.2016, as confirmed by the appellate authority and revision authority. We leave it open to the disciplinary authority to impose any minor penalty on the applicant. The applicant shall be reinstated into service forthwith and the manner in which the period between the date of removal from service and the date of reinstatement shall be treated, shall be decided by the disciplinary authority when he passes a fresh order of punishment.

10. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

(Dictated in open court)
Dated, the 22nd day of March, 2019

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