

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**OA No. 3127/2014
With
OA No.507/2016**

New Delhi, this the 8th day of August, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

O.A. 3127/2014

Mrs. Usha Anand, Aged about 58 years,
W/o Late Shri Ashok Kumar Anand,
R/o 170/B-1, Basant Road,
Railway Colony, New Delhi-110055
Working as Assistant Accounts Officer,
Traffic Accounts Office,
State Entry Road, New Delhi. .. Applicant

(By Advocates: Shri Sudarshan Rajan with
Shri Ramesh Rawat)

Versus

1. Union of India through
The General Manager,
Northern Railway, Baroda House,
New Delhi-110001.
2. Financial Advisor and Chief Account Officer
(Traffic)
Baroda House,
New Delhi-110001.
3. The Dy. Chief Accounts Officer (Traffic)
State Entry Road, New Delhi. .. Respondents

(By Advocate : Shri Shailendra Tiwary)

O.A. 507/2016

Mrs. Usha Anand, Aged about 59 years,
W/o Late Shri Ashok Kumar Anand,
R/o Quarter No.170/B-1,
Basant Late (sic Lane),
Railway Colony, New Delhi-110055
Retired as Accounts Clerk. .. Applicant

(By Advocates: Shri Sudarshan Rajan with
Shri Ramesh Rawat)

Versus

1. The Union of India
Through General Manager,
Northern Railway, Baroda House,
New Delhi-110001.
2. The Additional General Manager,
Revision Authority,
Northern Railway,
Baroda House,
New Delhi.
3. The Financial Advisor and
Chief Accounts Officer (T)
(Appellate Authority)
Northern Railway,
Baroda House,
New Delhi.
3. Dy. CAO/Traffic,
The Disciplinary Authority,
Northern Railway,
New Delhi. .. Respondents

(By Advocate : Shri Shailendra Tiwary)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman**

The applicant was appointed as an LDC in the Northern Railway in the year 1985. She was promoted as Accounts Assistant, thereafter. She was served with a Charge Memorandum dated 01.10.2012, alleging that she has violently misbehaved with the staff of Coaching Local Section on 18.04.2012 and with the AFA/Cg. Local on three occasions in April, 2012. The explanation submitted by the applicant was found not satisfactory and, accordingly, a Disciplinary Enquiry was ordered. The Enquiry Officer submitted his report holding the charges as 'proved'. Taking the same into account, the Disciplinary Authority passed an Order dated 07.05.2013, imposing the punishment of 'Reduction of Pay Scale of the applicant from PB-2 with Grade Pay of Rs.4200 to PB-1 with Grade Pay of Rs.2800, to be in force for a period of three years'. O.A. No.3127/2014 is filed challenging the Charge Memorandum dated

01.10.2012, the report of the Enquiry Officer and the Punishment Order dated 07.05.2013.

2. The applicant contends that the allegations made against her are motivated and not proved. She contends that the findings are recorded, as though the charges are proved, though there is no evidence. It is stated that the punishment imposed is too harsh and disproportionate.

3. The respondents filed a detailed counter affidavit opposing the O.A. It is stated that the applicant has misbehaved with the staff members as well as Superiors and her acts of misconduct were clearly proved in the Departmental Enquiry. It is further stated that the Tribunal cannot sit as an Appellate Authority on the findings recorded by the Enquiry Officer and that the punishment cannot be said to be disproportionate.

4. Even while the punishment imposed through order dated 07.05.2013 was in force, the applicant was issued a Charge Memorandum dated 16.09.2013, with the allegation that she has misbehaved with her fellow

Officers and staff in the Section on 02.07.2013, shouted and complained about the seating arrangement, and that it has become a matter of habit for her to misbehave with the fellow Officers and staff. The explanation submitted by the applicant was not accepted and after conducting a Departmental Enquiry, the Disciplinary Authority passed an order dated 16.03.2015, imposing the punishment of 'Compulsory Retirement from service, without any loss of Pension'. O.A. No.507/2016 is filed against this order.

5. The applicant contends that there is a group of employees in the Section, who are repeatedly complaining against her and instead of protecting her, the Department has initiated Disciplinary Proceedings. It is stated that the harshest punishment was imposed on the allegations, that are not serious in nature.

6. The respondents filed a counter affidavit. It is stated that the misbehaviour of the applicant, that too with the Officers and fellow staff members, has become almost routine, and it was spoiling the working atmosphere in

the office. They adopted the same course of defence, as in the other O.A.

7. We heard Shri Sudarshan Rajan with Shri Ramesh Rawat, learned counsel for the applicant and Shri Shailendra Tiwary, learned counsel for the respondents.

8. The Articles in the Charge Memorandum dated 01.10.2012, read as under:

“Articles of charges framed against Smt Usha Anand AA

1 Smt Usha Anand AA while working as Accounts Assistant in Coaching Local Section had violently misbehaved with the staff of Cg. Local on 18.4.2012.

2 Smt Usha Anand misbehaved with Sh. Ranaji Chauhan, AFA/Cg.Local on 16.4.2012, 17.4.2012 & 18.4.2012 in his chamber.

By the above act of omission and commission, Smt Usha Anand has failed to maintain absolute integrity, shown from lack of devotion to duty, acted in a manner unbecoming of a Railway servant, thereby contravening Rule No. 3.1 (i) (ii) & (iii) of Railway Service (Conduct) Rules 1966.”

9. The applicant denied the same but the Enquiry Officer has held the charges as ‘proved’. The punishment

of reduction of pay scale from PB-2 to PB-1, with corresponding Grade Pay, was imposed for three years. Though extensive arguments are advanced by the learned counsel for the applicant, we are not convinced to take a view, different from the one arrived at by the Enquiry Officer.

10. The allegations made in the Charge Memorandum dated 16.09.2013, read as under:

“Articles of charges framed against Smt. Usha Anand Account Clerk/TA/NDLS.

1. Whereas the said Smt. Usha Anand, Presently posted as Accounts Clerk in the Administration Section of the Traffic Accounts office, New Delhi, herein after referred to as Charged Officer (CO), misbehaved with her fellow officers and staff in the section on 02.07.2013. She shouted and used unparliamentary language with her superiors and colleagues. She was orally advised to desist from such behaviour. Later in order to ensure smooth and peaceful working in the section the seating arrangement was re-organised.
2. The CO, on 08.07.2013 started shouting and complaining about the revised seating arrangement in the section. The CO called her daughter Ms. Meenakshi Anand, to office and both of them indulged in unparliamentary behaviour with the officers and staff of the section. Thereafter, the CO dialled ‘100’ and called the Delhi Police to the office. The CO complained to the Delhi Police that the revised seating arrangement in the section is not to her liking and therefore the Delhi Police should get the seating

arrangement changed. Finding that the Delhi Police refused to interfere in such purely administrative issue, the CO then abused the staff and officers in the section.

3. The CO is habitual in her misbehaviour with the staff and officers. In the past too there have been a number of complaints against the CO on account of her misbehaviour, use of abusive language and creating fear amongst her co-workers. One minor penalty and one major penalty has been imposed on her under the Railway Servants (Discipline & Appeal) Rules, 1968 but the CO has failed to show any improvement in her behaviour and conduct.”

11. Here again, the common factor is the misbehaviour of the applicant with the other staff members and Officers. Obviously, taking into account, the misbehaviour of this nature, the Disciplinary Authority imposed the punishment of ‘Compulsory Retirement’ through order dated 16.03.2015. In all fairness to the applicant, the respondents have retained the pensionary benefits of the applicant.

12. The learned counsel for the applicant submits that even if the Tribunal is not inclined to interfere with the Charge Memorandum/Punishment Order, her Grade Pay needs to be protected, to enable her to draw the Pension

in the scale, in which she was working before the punishment order dated 07.05.2013 was passed. We gave our deep consideration to the issue, and heard the learned counsel for the respondents, on this.

13. A perusal of the Articles of Charges in both the Charge Sheets discloses that the applicant was intemperate towards her colleagues and officers, which lead to disturbance in the working atmosphere. This is not a case where the allegation is of misappropriation, insubordination or other activities, leading to financial loss to the Department. Had the punishment, with reference to 2nd Charge Sheet been delayed by one year, the applicant would have been able to draw the Pension in PB-2 with Grade Pay of Rs.4200. Since the punishment of 'compulsory retirement' was imposed at a time when the punishment of reduction of pay scale was in operation, the pension had to be decided with reference to the PB-1 with Grade Pay of Rs.2800. We are of the view that even while retaining the punishment of 'compulsory retirement', the pension of the applicant can

be determined with reference to PB-2 with Grade Pay of Rs.4200, without any benefit of arrears. This would be just a matter of shifting the operation of the order of punishment of compulsory retirement, to a date which occurs, after the punishment of reduction in pay scale expired. A woman employee cannot be deprived of retirement benefits solely because of incompatibility with her colleagues.

14. We, therefore, dismiss the O.A. No.3127/2014 and partly allow the O.A. No.507/2016, directing that the Pension of the applicant shall be determined on the basis of PB-2 with Grade Pay of Rs.4200, prospectively, within two months from the date of receipt of a certified copy of this order. The applicant shall not be entitled to any arrears on that account. There shall be no order as to costs.

**(Mohd. Jamshed)
Member (A)**

**(Justice L. Narasimha Reddy)
Chairman**

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