

(1970) 11 DEL CK 0024

In the Delhi High Court

Case No : Civil Writ Petition No. 670D of 1965

Devi Parshad Mathur

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 19-11-1970

Acts Referred:

Citation : (1972) 8 DLT 112

Hon'ble Judges : Jagjit Singh, J

Bench : Single Bench

Advocate : S.S. Gupta, R.L. Aggarwal and S.P. Aggarwal, for the Appellant;

Judgement

Jagjit Singh, J.

(1) On April 30, 1955 Shri C. L. Chadha, Senior Accounts Officer. Foreign Traffic Accounts, Western Railway, Kishan Ganj, Delhi, imposed the penalty of withholding of increments for two years with cumulative effect on Shri Devi Prashad Mathur, a railway employee. Shri Mathur, who is a clerk grade I, in the office of the Senior Accounts Officer, filed an appeal to the Deputy Chief Accounts Officer, Traffic, Accounts. Western Railway, Ajmer. The appellate authority dismissed the appeal on July 5, 1965. The order dismissing the appeal was conveyed to the petitioner on July 8, 1965 and was referred to by him in the writ petition as the order dated the 8th July 1965. On November 8, 1965 the present petition was filed with a prayer that an appropriate writ, order or direction be issued quashing the orders dated the 30th April and the 8th July 1965. It was alleged in the petition that the action imposing the penalty upon the petitioner was arbitrary, vindictive, against principles of natural justice, equity, good conscience and fair-play and was illegal, malafide and perverse.

(2) Shri A. P. Chopra, Senior Accounts Officer (W), Ajmer, had been deputed by the Deputy Chief Accounts Officer, to look after the work of the Senior Accounts Officer, Foreign Traffic Accounts, Western Railway, Krishan Ganj Delhi, from the 4th to the 7th January 1965. During those days Chopra made some entries in the

"service sheets of some members of the staff who had absented themselves from their seats without prior permission of their supervising Officers, On January 8, 1965 he made a report suggesting action to be taken against Rinjit Singh Gupta, Lokendar Singh Shami and the persons named in the statements of Rattan Singh, T. N Handa, S.D. Pande.S. K. Bhatia and Kidar Nath. The statements of the said officials were attached to his report.

(3) According to the report made by Shri Chopra a request was made to him at about 4 P.M. on January 7, 1965 by S. L, Mathur, Dina Nath, V. T. Rama Chindra and S. L. Saini for cancelling the entries that had been made by him in service sheets. He did not agree to that but told the above-named officials, who had met him, that the conduct of the persons concerned would be watched by the Senior Accounts Officer in whose place he was working and if it was found that they did not again absent themselves then the remarks made by him would be suitably amended. It was further mentioned that the same day at about 5. 10, P. M. about 80 to 90 persons gathered in front of his room and started shouting slogans and also demanded immediate cancellation of the entries made in service sheets. The report farther stated that even his telling the persons who had collected that their behavior amounted to gross indiscipline had no effect and when he wanted to leave the office in a scooter-rickshaw, the rickshaw was as well not allowed to move with the result that he could only leave office with the help of the Police-flying squad.

(4) In the statements of Rattan Singh, Handa, Pande, Bhatia and Kidar Nath, attached to the report of Chopra, and which statements had been recorded after the incident, Devi Prashad Mathur was specifically mentioned to be shouting slogans.

(5) Proceedings for taking disciplinary action were started against Devi Prashad Mathur by Shri Chandha Senior Accounts Officer, on the 2nd or the 3rd of March 1965. Under provisions of rule 17 16 of the Discipline and Appeal Rules for Railway Servants other than those employed in the Railway Protection Force (hereinafter referred to as the Discipline and Appeal Rules for Railway Servants), a memo was issued to Mathur to enable him to make a representation for showing cause against imposition of the penalty of withholding of increments for two years with cumulative effect. In the statement of allegations it was stated that Mathur along with other staff of the Foreign Traffic Accounts Office, Western Railway, Krishanganj Delhi, held a demonstration within the office premises outside the "Chamber" of the Senior Accounts Officer and that he had continued to actively associate himself with the demonstration in which certain slogans were shouted against Chopra. The conduct of Mathur was alleged to be in violation of the provisions of rule 19(1) of the Railway Services (Conduct) Rules, 1956 and certain instructions which had been circulated in September 1964.

(6) In his reply the petitioner denied his participation in any manner in the alleged demonstration. The plea taken by him was, however not believed and the penalty of withholding of increments for two years with cumulative effect was

imposed on him and, as already stated" the appeal filed by him also failed.

(7) Rule 19(1) of the Railway Services (Conduct) Rules reads, as under :-

"19(1).Demonstrations :- No Railway Servant shall engage himself or participate in any demonstration which is prejudicial to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, Public order, decency or morality, or which involves contempt of Court, defamation or incitement to an offence."

(8) On behalf of the petitioner it is was contended by his learned counsel, Shri S. S. Gupta, that rule 19(1) of the Railway Services (Conduct) Rules had no application to the facts of the case as the alleged demonstration was held outside the main gate of the office buildings and the demonstration was in no way "prejudicial to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality" and did not involve "contempt of Court, defamation or incitement to an offence". It was urged that the petitioner being an office bearer of the Western Railway Employees Union, Delhi Branch, had been victimised for his alleged trade union activities.

(9) Another submission made was that the order of the punishing authority and the appellate authority had failed to record any reasons and were, Therefore, liable to be set aside. In that connection *Devi Deen v. The Divisional Operating Superintending, Northern Railway Moradabad*, was cited in which it was held that where an order of punishment was made under rule 1716 and the appeal was rejected without giving any reasons the appellate order stood vitiated.

(10) The record of the proceedings was produced by Shri R.L. Aggarwal, learned counsel for the respondents. It contains a detailed order of Shri Chadha, Senior Accounts Officer, by which he had imposed the penalty on the petitioner and another. From a consideration of the facts of the case Shri Chadha had come to the conclusion that the petitioner was amongst the demonstrators who were shouting slogans against Shri Chopra. The order by which penalty of withholding two increments was imposed on the petitioner cannot, Therefore, be said to have been passed in contravention of the provisions of rule 1716 of the Discipline and Appeal Rules for Railway Servants, one of the requirements of which is that the record of proceedings should include "the order on the case together with the reasons therefore",

(11) The appellate order passed by the Deputy Chief Accounts Officer was as under :-

"I have gone through the appeals preferred by S/s D.P. Mathur and K.C. Anand. I have carefully gone through the Pip and further developments thereafter culminating in the imposition of penalty by Sao (FT"\\) D.KZ. Nothing has been brought out in the appeals to merit reconsideration of punishment imposed .The appeals are Therefore rejected."

Rule 1731 of the Discipline and Appeal Rules for Railway Servants inter alia, provides that in the case of an appeal against an order imposing any penalties specified in rule 1707 the appellate authority shall consider whether the procedure prescribed in the rules has been complied with and as to whether the findings are justified and whether the penalty imposed is excessive, adequate or inadequate. It was urged that these requirements of rule 1731 were not complied with by the appellate authority. I am, however, unable to agree. There was no dispute in the case, whatsoever, about the proper procedure not having been followed. The appellate authority held that nothing had been brought out in the appeal to merit re-consideration of the punishment proposed. It followed that he considered the finding against the petitioner to be justified and the punishment to be adequate. There was, in my opinion, substantial compliance with the requirements of rule 1731 of the Discipline and Appeal Rules for Railway Servants.

(12) I also do not find any substance in the contention that rule 19 (1) of the Railway Services (Conduct) Rules had no application to the facts of the case. According to the statements attached to the report of Chopra slogans of Chopra" Moradabad "were shouted by the demonstrators and out of those who were most conspicuous in shouting slogans the petitioner was one of the persons. The rowdyism of the, demonstrators went to such an extent that even when Chopra wanted to leave office in a scooter-rickshaw he was not allowed to do so and he had to seek police help for safely going to his house.

(13) Shouting slogans abusing the officer who on January 7, 1965 was working as the Deputy Chief Accounts Officer and even not allowing that officer to leave office in a rickshaw when he wanted to go home were acts of indiscipline, impropriety and rowdyism and were, Therefore, prejudicial to decency and may have affected public order. The word decency also means "whatever is proper or becoming" and "standards of propriety" (see Webster's Third New International Dictionary-Volume 1-1967 edition-page 584). I do not see how rule 19 (1) of the Railway Services (Conduct) Rules was not applicable. It would not make any difference whether the demonstration was made on the inner side of the main gate or just outside it.

(14) There was material before the authorities concerned from which they could come to the conclusion that the petitioner was actively associated with the demonstration. The penalty of withholding of two increments was imposed after following the procedure of rule 1716 of the Discipline and Appeal Rules for Railway Servants and apart from the bald allegations made in petition there is not the slightest indication about the action against the petitioner being actuated by the desire to punish him for his trade union activities of being arbitrary, vindictive, mala fide or in any way illegal.

(15) There is no merit in the petition which is accordingly dismissed with costs. The counsel fee shall be assessed at Rs.150.00.