

(2013) 11 KAR CK 0338

In the Karnataka High Court

Case No : Writ Petition No. 8329 of 2011 (S-CAT)

The Divisional Operations Manager (DOM) and Disciplinary Authority, Addl. Divisional Railway Manager (ADRM), Chief Operation Manager (COM) and Union of India

APPELLANT

Vs

Sri K.T. Eshwara Rao

RESPONDENT

Date of Decision : 27-11-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 333, 506

Citation : (2013) 11 KAR CK 0338

Hon'ble Judges : Mohan M. Shantanagoudar, J;K.N. Phaneendra, J

Bench : Division Bench

Advocate : Kavitha H.C, for the Appellant; V.B. Shivakumar, for the Respondent

Final Decision : Allowed

Judgement

Mohan M. Shantanagoudar, J.—The order of the Central Administrative Tribunal in O.A. No. 358/2008, dated 9.7.2010 is called in question in this writ petition.

Heard learned advocates and perused the records.

It is alleged that on 28.3.2011, the respondent quarreled with Sri B. Chandrashekhar, an in-charge Station Master, who was on off-duty and indulged in verbal exchange using un-parliamentary words at work place and caused dislocation in NYH Station. It is also alleged that the respondent had indulged in forging the signature of Mr. Gunda, Pointsman in Control Message Book as witness to the incident, building up false evidence to support of his case.

Based on the aforementioned allegations, the charges are framed. Enquiry was conducted and during the course of enquiry adequate opportunity was given to the respondent and evidence was let in.

2. The charge was held to be proved. The Disciplinary Authority on considering the entire material on record, imposed penalty of reduction in respondent's pay

by three stages from Rs. 6,800/- to Rs. 6350/- in the pay scale of Rs. 5000-8000 for a period of one year with cumulative effect. The appeal filed by the respondent came to be rejected. The respondent filed a revision petition, in which the punishment has been reduced and modified to that of reduction of pay by two stages for a period of one year with cumulative effect.

3. It is relevant to note that the respondent had lodged a complaint against the aforementioned B. Chandrashekhar alleging that the respondent was assaulted while on duty by B. Chandrashekhar. In that regard, police laid the charge sheet against the said B. Chandrashekhar, for the offences punishable under Sections 333, 506 and 323 of IPC. The matter was committed to Sessions Court and the same was numbered as SC. No. 527/2003. In the said Sessions Case, B. Chandrashekhar was convicted by the Fast Track (Sessions) Court, Bangalore City on 15.12.2004 and he was sentenced to undergo imprisonment for two years. However, the said Chandrashekhar was later acquitted in Criminal Appeal No. 1793/2004 by the order dated 31.3.2011.

It is also relevant to note that the departmental enquiry was also conducted against B. Chandrashekhar. The charge was held to be proved against him. The revisional authority by the order dated 4.7.2008 reduced the penalty against B. Chandrashekhar to reduction of pay by one stage for a period of six months with non-cumulative effect.

4. Being aggrieved by the order of the Disciplinary Authority imposing penalty of reduction of two stages for a period of one year with cumulative effect, the respondent approached Central Administrative Tribunal in O.A. No. 358/2008, which came to be allowed on 9.7.2010, by the impugned order. At the outset, we find that the Central Administrative Tribunal has not adverted to majority of facts. We find that the observations made by the Tribunal do not advert to faults committed by the respondent. On the other hand, it adverts only to the faults committed by the B. Chandrashekhar. In that view of the matter, the submissions made at the Bar by the learned advocate for petitioners that order of the Tribunal is one sided, assumes importance.

Be that as it may, considering the entire material on record, we find that the respondent was also at fault. The Disciplinary Authority as well as the Appellate Authority based on the facts, have concluded that the respondent also has committed an error in quarreling with B. Chandrashekhar during office hours, by creating ugly scenes. Because of the action of the respondent as well as B. Chandrashekhar, dislocation is caused in the work at Railway Station. Though there was no detention to train service, the fact remains that there was dislocation at working place in Railway Station and one Mr. Vijayasarathy, was called upon to take up the duty, who relieved the respondent. The Disciplinary Authority, on facts has concluded that the respondent, to make use of the opportunity with mala fide intention, indulged in forging the signature of Mr. Gunda, in Control Message Book as a witness to the incident.

In view of the above, in our considered opinion, the Tribunal is not justified in exonerating the respondent. The Tribunal, at the most would have reduced the penalty imposed on the respondent to make it on par with the penalty imposed on B. Chandrashekhar. In view of the above, following order is made:--

- i) The orders of Disciplinary Authority and the Appellate Authority holding that the charges levelled against the respondent are proved, stand confirmed.
- ii) The respondent is imposed with the penalty of reduction of pay by one stage for a period of six months without cumulative effect.
- iii) The orders of the Central Administrative Tribunal and the Appellate Authority as well as the Disciplinary Authority, are modified to the said extent.

Writ petition is allowed accordingly.