
(2004) 12 BOM CK 0024
In the Bombay High Court
Case No : A.S.W.P. No. 573 of 2004

Union of India (UOI) and Another

APPELLANT

Vs

P.J. Rastogi, Section Engineer (TRS), Central Railway

RESPONDENT

Date of Decision : 06-12-2004

Acts Referred:

Citation : (2005) 105 FLR 1117 : (2005) 3 LLJ 42

Hon'ble Judges : V.C. Daga, J; S.J. Vazifdar, J

Bench : Division Bench

Advocate : Sundaram, for the Appellant; Harsulkar, for the Respondent

Final Decision : Dismissed

Judgement

1. This petition is directed against the order of the Central Administrative Tribunal Mumbai Bench Camp at Nagpur dated June 5, 2003, whereby the Original Application filed by the respondent No. 1 came to be allowed and the order impugned before the Tribunal came to be quashed and set aside including the punishment imposed on the respondent No. 1. Shri Sundaram the learned counsel appearing for the petitioner while challenging the order of the Tribunal contends that the Tribunal could not have relied upon the Office Note dated May 15, 1996 and the assignment of duties on April 22, 1996 to consider the situation prevailing as on November 30, 1996.

2. Before advertng to the submission made by Mr. Sundaram, if one turns to the charge-sheet itself it reads as under:

"On November 30, 1996, while working in RR Section during O/8 shift duty, you were instructed to look after the out going locos. Although Loco No. 20681 was to go with Train No. 1391 as per link, you did not test the loco and keep it ready in time. You gave the said loco for TFR checking at 05.15 hours - thus it was late. Even after that, you did not make efforts to repeat this loco immediately. Because of this reason, the said loco was repeated at 6.30 hours. Due to this reason, the loco could not be attached to the Link Train.

You have not given any information about this incident to your senior Supervisor and Officer for which you have been already given instructions.

Earlier also, you have been given warning and charge-sheet on many occasions regarding your work, but there is no improvement in your working. This shows your negligence and carelessness towards your duties."

3. The opening part of the charge-sheet states that on November 30, 1996 while the respondent was working in RR Section during O/8 shift duty he was instructed to look after out going locos. The charge neither says that the duty entrusted to the respondent No. 1 was in addition to the duty which he was looking after nor does it specify as to whether the instructions were oral or written.

4. The charge-sheet is also silent as to which Superior Officer had given instructions to the petitioner. In our view the charges levelled were absolutely vague.

5. The respondent in order to show the working pattern of the office and the manner in which the duties are allotted, appears to have relied upon Office Note dated May 15, 1996 and assignment of duty dated April 22, 1996.

6. In order to rebut above evidence, it was open for the petitioner to produce the duty list or the material showing assignment of specific duties which were either meant for the month of November 1996 or for November 30, 1996. No such attempt was ever made by the petitioner.

7. Under the above circumstances, if the order of the Tribunal is examined on the canvass of the assignment of duties on April 22, 1996 one has to infer that the duties are assigned in writing. No material was placed before the Tribunal to establish charges levelled against the petitioner, as such we do not see any illegality in relying upon such Office Note by the Tribunal.

8. For the reasons stated hereinabove we confirm the findings recorded by the Tribunal and also hold that the charge-sheet was absolutely vague and on the basis of the vague charge-sheet petitioner could not have been punished. In this view of the matter the petition is without any substance.

9. At this stage reply on behalf of the respondent to the affidavit in rejoinder is brought on record alleging that the respondent was orally instructed by the senior Officer on November 30, 1996 to attend the outgoing loco i.e. Engine No. 20681. However, the name of senior Officer has also not been disclosed. This attempt in our opinion is nothing but an attempt to improve the case before this Court. We cannot take cognizance of such material to find fault with the order of the Tribunal. Had it been so, petitioner would have placed such material before the Tribunal. In the circumstances, petition is liable to be dismissed in limine with no order as to costs.