

M. A. Khalsa

Vs

Union of India and Others

Civil Appeal No. 2470 of 1987

(A. P. Sen, B. C. Ray JJ)

07.09.1987

ORDER

1. Special leave granted. Arguments heard.

2. Notice in the special leave petition was confined to the question of sentence only. In response to the notice, the respondents have filed a counter seeking to make out that the disciplinary authority was entitled to disagree with recommendation of the Enquiry Officer as to the measure of punishment under Rule 10(3) of the Railway Servants (Discipline & Appeal) Rules, 1968 and from the considered opinion that the appellant who was working as a Head Clerk in the Electrical Wing in the office of the Senior Divisional Railway Manager, Baroda, was liable to be dismissed for having made a false claim for payment of Rs. 156.80 as honorarium payable to one Smt. S. A. Pandya, Senior Clerk working under him when in fact no such honorarium was payable to her. Nor did she prepare the salary bills under his supervision. The appellant appears to have drawn the amount on the strength of the false bills and misappropriated the same. Later on a complaint by Smt. Pandya, the Senior Divisional Personnel Officer, Baroda on enquiry detected that the appellant had drawn the amount. In a frantic effort to cover up the charge, the appellant made a remittance of the amount to the Station Master, Pratapnagar after the commencement of the enquiry. There is not doubt in our mind that the appellant was guilty of grave misconduct on the findings reached by the Enquiry Officer and accepted by the disciplinary authority. There is also no doubt that the procedure laid down in Rules 12 and 10(3) of the Rules had been followed and the appellant was furnished with a copy of the enquiry report and afforded a reasonable opportunity of showing cause against the action proposed to be taken.

3. In view of the seriousness of the charge, the appellant rightly deserved the order of dismissal. However, looking to the long years of service that he has put in, we direct on compassionate grounds that he be reinstated in service without any back wages or allowances but with the lesser punishment of with-holding of two increments with cumulative effect and with consequential loss of seniority. There shall however be no break in service for purposes of pension. We trust that the appellant will learn by experience and discharge his duties with a sense of responsibility.

4. With this reduction in sentence, the appeal fails and is dismissed. No costs.

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