

(14)

Central Administrative Tribunal  
Principal Bench

O.A. No. 2851 of 1999

New Delhi, dated this the 4<sup>th</sup> JULY, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri S.Q. Siddiqui,  
S/o Shri A. siddiqui  
Mail Driver,  
Central Railway  
C/o Shri Shahabuddin,  
110, Block, F,  
Ramesh Park,  
Laxmi Nagar,  
Delhi-110091.

.. Applicant

(By Advocate: Shri H.P. Chakravorti)

Versus

1. Union of India through  
the Chairman,  
Railway Board,  
Ministry of Railways,  
Rail Bhawan, New Delhi.
  2. The Chief Operating Manager,  
O/o the G.M., Central Railway,  
Mumbai CST.
  3. The Divisional Railway Manager,  
Central Railway,  
Jhansi.
- . Respondents

(By Advocate: Mrs. Meera Chhibber)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated 8.6.98 (Annexure A-1); dated 27.7.98 (Annexure A-2) and dated 16.4.99 (Annexure A-3). He prays for reinstatement with backwages and other consequential benefits.

2. Applicant was proceeded against departmentally vide Memo dated 8.10.97 (Annexure A-4) on the charge that while working on the post of Driver on 8543 Samta Express on 1.9.97 he exhibited

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indifference and carelessness in working, in as much as he did not apply<sup>ing</sup> the brakes in time to stop the train, as a result of which it crossed the home signal at Gher Station. Thus he violated Rule No. GR 3.81 (1), SR 4.41-1. He also did not check the brake power of the locomotive in First Block Section properly and hence also violated Rule No. SR 4.32-1(c).

3. The E.O. in his findings dated 4.3.98 (Annexure A-7) held the charge as proved.

4. A copy of the E.O's findings was furnished to applicant vide letter dated 9.3.98 (Annexure A-7) for representation, if any.

5. Applicant submitted his representation on 17.3.98, and after considering the same, as also the other materials on record, the disciplinary authority by order dated 8.6.98 imposed upon applicant the penalty of compulsory retirement from service. Applicant's appeal was rejected on 27.7.98 and his revision petition was rejected after giving him a personal hearing on 16.4.99, giving rise to the present O.A.

6. A perusal of the grounds taken in the O.A. reveal that the main grounds are firstly that the sole relied upon document in the D.E. was the statement given by the guard who, however, was not

produced as a P.W. in the D.E.; secondly that certain PWs in the D.E. were not relied upon in the charge sheet; <sup>and</sup> thirdly that there was no evidence to establish that it was because of the failure to applying brake, in time that caused the train to cross the signal at danger, or that applicant had failed to check the brake power, properly in the first block section. Indeed it is applicant's contention that it was the poor brake power that caused the train to cross the signal at danger point despite the timely application of brakes, <sup>for</sup> which he cannot be held responsible. In this connection it was also asserted that in a similar case involving one J. Pinto, driver he had not been visited with the penalty of removal from service.

8. It is not denied that applicant who was driving the train at the relevant time crossed the home signal at danger time. Applicant cannot absolve himself of his own responsibility in the matter by contending that the brake power was not of the requisite standard, because as pointed out by the revisional authority, as a Mail Driver, applicant was supposed to test the brake power of the locomotive in the first block section after starting and be aware of the brake power of the train. Furthermore applicant had indeed stopped the train enroute before the incident, and should have been able to control the train if he had been alert and attentive.

9. We have also checked up the position with regard to the penalty inflicted on Shri J. Pinto, and applicant's contention that he has been discriminated against vis-a-vis Shri J. Pinto is not borne out by facts.

10. This is not a case of no evidence. Applicant was given full opportunity to defend himself and the proceedings have been conducted in accordance with the prescribed rules and instructions. There has been no violation of the principles of natural justice, and the penalty has been inflicted by the authorities competent to inflict the same. The O.A., therefore, warrants no interference. It is dismissed. No costs.

*A. Vedavalli*  
(Dr. A. Vedavalli)  
Member (J)

*S.R. Adige*  
(S.R. Adige)  
Vice Chairman (A)

karthik