

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 703/1995

New Delhi, this the 15th September, 1998.

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN
HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

Naeem Azhar S/O Mohd. Dilwar Khan,
Dy. Chief Controller,
N. Railway Control Office,
DRM's Office,
Moradabad.

... Applicant

(By Shri G. D. Bhandari, Advocate)

-Versus-

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Chief Operating Manager,
Northern Railway,
Baroda House,
New Delhi.

3. The Divisional Railway Manager,
Northern Railway,
Moradabad.

... Respondents

(By Shri R. L. Dhawan, Advocate)

O R D E R

Shri Justice K. M. Agarwal :

By this Original Application, the applicant has made a prayer for quashing the penalty order dated 1/6.9.1994, Annexure A-3, passed by the Additional Divisional Railway Manager, Moradabad, in exercise of his suo motu power of revision under Rule 25 of the Railway Servant (Discipline and Appeal) Rules, 1968, as also the appellate order confirming the order passed in revision. The applicant has further made a prayer for consequential reliefs.

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2. While working as Dy. Chief Controller, Northern Railway, Moradabad, the applicant was subjected to a departmental inquiry for certain misconduct. Though the misconduct was found proved by the inquiry officer, the disciplinary authority exonerated him from various charges and reinstated him in services with all consequential benefits. By the impugned order, the revisional authority disagreed with the conclusions reached by the disciplinary authority and decided to impose upon the applicant the penalty of reduction from his present grade of Rs.2000-3200 to grade Rs.1400-2660 (RPS) at the stage of Rs.1400/- for a period of five years with cumulative effect. Being aggrieved, the applicant filed appeal which was dismissed. Hence, this O.A. has been filed by the applicant for the said reliefs.

3. The learned counsel for parties were heard. Record perused. We find that what persuaded the revisional authority to take a view contrary to that taken by the disciplinary authority is contained in Paragraph 3 of the impugned order. It reads as follows :-

"3. In addition to the culpability of others, because of the dereliction of duty on your part untold misery and loss of human lives has taken place. While it is true that station staff is also responsible for the accident, this does not in any way absolve you. It is also

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shocking to note that you find a potentially dangerous situation, which could lead to loss of human lives, trivial and a matter of no great importance to enquiry into and take immediate remedial action. It is the bounden duty of all railwaymen to ensure safe running of trains etc. at all times. This you have miserably failed to ensure. A prompt and vigilant action on your part would have gone a long way in preventing the accident."

It would, thus, appear that the revisional authority did not take any pains to show where the disciplinary authority committed an error in coming to a conclusion that the misconduct alleged against the applicant was not proved. Only because the revisional authority was of the view that there was loss of human lives in a potentially dangerous situation, ^{as the} was not sufficient to hold the applicant guilty of the misconduct alleged against him. The order is cryptic and fanciful. In Ram Chander vs. Union of India, ATR 1986 (2) SC 252, the Supreme Court said that the duty to give reasons is an incident of the judicial process. It was found that the order passed by the appellate authority in that case was a mechanical reproduction of the phraseology of Rule 22 (2) of the Rules without any attempt on the part of the Railway Board either to marshal the evidence on record with a view to decide whether the findings arrived at by the disciplinary authority could be sustained or not. There was also no indication that the Railway Board applied its mind

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as to whether the act of misconduct with which the appellant was charged together with the attendant circumstances and the past record of the employee were such that he should have been visited with the extreme penalty of removal from service. Applying the same principles, we are of the view that the revisional authority did not take into account the relevant factors for coming to the conclusion different from that taken by the disciplinary authority. Accordingly, the order passed by the revisional authority deserves to be set aside. The appellate order, therefore, also deserves to be set aside.

4. In the result, this OA succeeds and it is hereby allowed. The impugned order dated 1/6.9.1994, Annexure A-3, by the revisional authority and that passed by the appellate authority are hereby quashed. The order passed by the disciplinary authority is restored. The applicant shall be entitled to restoration of his grade of Rs.2000-3200 with all consequential benefits. No costs.

Km

(K. M. Agarwal)
Chairman

R. K. Ahuja
(R. K. Ahuja)
Member (A)

/as/