

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-2120/94

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New Delhi this the 23rd day of July, 1999.

Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)
Hon'ble Shri S.P. Biswas, Member(A)

Shri Partap Bahadur,
C/o Sh. Ashok Kumar Yadav,
R/o B-6, Gali No. 3,
Bhajan Pura, Delhi-93.

..... Applicant

(through Sh. Anis Suhrawardy - Not present)

versus

1. Union of India through
its General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Sr. Divl. Safety Officer,
Northern Railway,
Chelmsford Road,
New Delhi.
3. A.D.R.M.,
Northern Railway,
DRM Office,
Northern Railway,
State Entry Road,
New Delhi.

..... Respondents

(through Sh. R.P. Aggarwal, advocate)

Order(oral)

Hon'ble Shri S.P. Biswas, Member(A)

The applicant a B Grade Guard under the respondent railways was punished by an order dated 1.8.88 with removal from service with immediate effect. The said order was issued following a departmental enquiry held against him.

2. Description of background facts necessary, in brief, would explain the legal issues involved in

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this case. The applicant on 11.2.88 was working as a guard on a goods train which stopped short of the some signal of station between Tughlakabad and Cabin Junction. As per requirement of the safety rules, when a train stops in the mid station for more than 15 minutes, the official incharge running of the staff, i.e. the guard is required to protect the train from any possible accident by use of detiorators and red flag so that it acts as a caution for any train approaching on the same line. The applicant did not act required under the safety rules as a result, an accident took place resulting death of two officials, namely, the driver and the asstt. driver. When this happened, the administration Railways held an enquiry by a Committee consisting of 5 officials. The said Committee consisting of all the rank of Sr. Administrative Grade and it was chaired by Chief Safety Supdt. Northern Railways. After examining the relevant documents, the Committee concluded that the Driver and the Asstt. Driver were responsible for the accident. In respect to the guard, the Committee concluded that "he has accepted that he failed to protect the train". In other words, had the protection been done as mentioned in the report, he would have stopped the train by using the emergency brakes. The failure of the applicant in protecting the train having been established after holding a regular departmental enquiry and having been misconduct established, he was removed from service by the Sr. Divl. Safety Officer of the Railways. His appeal was dismissed. In an FIR filed by the Government Railways, the applicant

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was prosecuted for offence under Section 304 A of the Indian Penal Code and the applicant got acquitted in that by the judgement dated 20.4.92. On acquittal he filed a review which was not considered.


3. We find that the applicant has come out before us in 1994 to challenge the order of removal after a passage of almost 6 years. Because of this the applicant has also come up with an MA-3577/94 giving the details as to how he had failed to file the O.A. in time. In the M.A., the applicant has submitted that he was waiting for the orders of the Ld. Judicial Magistrate and he also preferred review appeal to the General Manager which was not disposed of till the date he had filed the M.A. We are not convinced with the reasons for the delay in filing the M.A.

4. Apart from the delay, the applicant's case has no basis in terms of the merits as had been held in the case of Jitendra Nath Srivastava Vs. U.O.I. (1990(7) SLR 376(CAT) Allahabad and Laxman Vs. State of Rajasthan (1994(5) SLR 120 (Raj.High Court).

As per the decisions, any order of acquittal by a Criminal Court will not have any effect on the departmental proceedings holding an official responsible and guilty of misconduct. In the criminal court the applicant was prosecuted for an offence under Section 304 A of the Indian Penal Code wherein he was proceeded against and punished for a misconduct of dereliction of duty. Hence the acquittal in Criminal case does not exonerate him of his misconduct.

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5. In view of the above discussion, we find no merit in this application. Accordingly, the same is dismissed, leaving the parties to bear their own costs.


(S.P. BISWAS)
MEMBER(A)


(A.V. HARIDASAN)
VICE-CHAIRMAN(J)

/vv/