

2

Central Administrative Tribunal, Principal Bench

Original Application No. 396 of 2000

New Delhi, this the 6th day of April, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman  
Hon'ble Mr. V.K. Majotra, Member (Admnv)

Tarsem Lal, S/o Shri Ram Chand,  
Ex-Driver 'A' Sepcial, Loco Shed,  
Northern Railway, Delhi Main,  
Residential Address: Tarsem Lal,  
House No. 108-H, Rishi Nagar, Shakur  
Basti, Delhi-110034.

- Applicant

(By Advocate Shri G.D. Bhandari)

Versus

Union of India, through

1. The General Manager, Northern  
Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway, State Entry Road,  
New Delhi.

- Respondents

O R D E R (Oral)

By Justice Ashok Agarwal, Chairman.-

A penalty of compulsory retirement imposed on  
the applicant is impugned in the present O.A.

2. The applicant at the material time was working  
as a Driver 'A' Special with the Northern Railway,  
respondents herein. He was proceeded in disciplinary  
proceedings in respect of an accident which had occurred  
on 18th November, 1990. The statement of articles of  
charge framed against the applicant is as under:-

The said Shri Tarsem Lal while functioning  
as Driver of Engine No. 17888-WDM-2 is  
responsible for not stopping short of Lxing  
gate No. 15-C to ensure its closure & passing  
the same in open position in disregard of  
caution order issued to him at MTC & MUZ,  
resulting in train engine of B238 Dn Express  
struck with Truck No. NLZ-5230 at Lxing  
No. 15-C at MDNR on 18-11-90 at 3/38 hrs and  
caused death of one cleaner and minor  
injuries to Truck Driver. Thus, he violated  
G.R. 4.08 (2)(b) of G&S Rules Book."

Shri R.P. Dogra, Loco Inspector, Delhi was appointed as  
enquiry officer. By his report he has held the

3

:: 2 ::

applicant guilty of the aforesaid charge. A copy of the said finding (Annexure-21) was duly served on the applicant. The applicant submitted his representation against the same. The disciplinary authority Shri D.C.Suri, Sr.DME (Operating), New Delhi by an order passed on 3rd June, 1991 accepted the aforesaid finding of the enquiry officer and proceeded to impose the aforesaid penalty on the applicant. The applicant carried the matter in appeal. The appellate authority dismissed the appeal (Annexure-A-3).

3. The applicant impugned the aforesaid orders in this Tribunal by filing an OA being OA No.1029/93. By a judgment and order passed on 27th July, 1999, the aforesaid OA was allowed and the order passed by the appellate authority was set aside on ground inter alia that the same was passed without affording the applicant an opportunity of being heard and the same was not a speaking order. The aforesaid order was remanded back to the appellate authority for the purpose of giving the applicant a personal hearing and <sup>for</sup> ~~by~~ passing a reasoned order. The appellate authority in compliance with the aforesaid order has given a personal hearing to the applicant and by an order passed on 18th January, 2000 the appeal of the applicant has been dismissed. Present order passed by the appellate authority we find is a reasoned order. The same deals with the contentions which have been advanced by and on behalf of the applicant. It has taken into account the facts and material available on record. The same has been passed after giving due hearing to the applicant.

4. We have heard Shri Bhandari, who has appeared

4

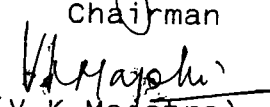
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in support of the application and have perused the entire material on record.

5. We are satisfied that the findings of the enquiry officer are based on evidence which has been adduced during the disciplinary proceedings. We are not a court of appeal, therefore, it is impermissible to reappricate the evidence and come to a finding other than the one which has been arrived at in the disciplinary proceedings. In the circumstances, the finding of guilt recorded against the applicant cannot be interfered with in the present OA. Principles of natural justice we find have been duly complied with. In the circumstances no fault to be found with the finding of the guilt recorded against the applicant. As far as the penalty which has been imposed on the applicant is concerned, the applicant has been found guilty of misconduct resulting in an accident which has caused death of the cleaner of the <sup>train</sup>~~truck~~ and has caused injury to the truck driver.

6. Having regard to the gravity of the misconduct, we do not find that the penalty of compulsory retirement is disproportionate to the measure of misconduct found proved against the applicant. The present application in the circumstances is devoid of merit and is accordingly dismissed in limine.

  
(Ashok Agarwal)  
Chairman

  
(V.K. Majotra)  
Member (Admnv)