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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1178/89

New Delhi this the 25th day of March, 1994

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Sohan Lal S/O Narain Lal,
Shunter, Loco shed, Northern
Railway, Jind (Haryana)
R/O Qr. No. L-190/6,
Northern Railway Loco Colony,
Jind (Haryana).

... Applicant

By Advocate Shri G. D. Bhandari

Versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, State Entry
Road, New Delhi. ... Respondents

None for the Respondents

O R D E R (ORAL)

Hon'ble Mr. Justice V. S. Malimath -

In a disciplinary inquiry held against the petitioner who was serving as an Engine Driver, was found guilty of acting negligently in not taking note of the signals. He has been imposed the penalty of reversion to the next lower time scale at the lowest stage permanently. Appeal against the same was rejected. So was the revision petition filed by the petitioner. It is in this background that he has approached this Tribunal for appropriate relief.

2. Shri Bhandari, learned counsel for the applicant took us to the evidence and tried to convince us that this is not a case in which the petitioner can be

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held guilty of negligence in not taking note of the signal lights. It is submitted that it was a misty morning and the yellow signal light having come after the double yellow light had come on the signal, the petitioner on that basis moved forward. It is also submitted that the petitioner bonafide relied upon the call given by his Assistant whose duty was to inform about the signal lights so that he may be able to move forward. Our attention was also drawn to the fact that the petitioner has since been acquitted of the criminal charge levelled under Section 101 of the Indian Railways Act by the Additional Sessions Judge, Karnal in his judgment in Criminal Appeal No. 45 of 1991 decided on 11.5.1992. We must say that the acquittal in the criminal case cannot affect the verdict in the disciplinary proceedings. That is the settled law. We cannot also take note of the comments made by the counsel for the petitioner on the evidence for the purpose of appreciating the evidence to substitute our findings for those arrived at by the disciplinary authority. We have no jurisdiction to do so. On the question of penalty, the Supreme Court has again and again reiterated that it is a matter of discretion of the disciplinary authority and that it would not be proper exercise of jurisdiction by the Tribunal to interfere with the exercise of discretion. These findings of ours would be sufficient to dismiss this application. We are, however, left with the impression that the punishment imposed having regard to all the circumstances, appears to be on the harsh side for the reason that reduction to the lowest stage is on a permanent

basis. This would mean that the petitioner has no future at all for the rest of his career. The accident did not cause any loss to life. By this time, considerable number of years have elapsed after the imposition of the penalty. The petitioner, if he has shown better performance, diligence and devotion to duty in the meanwhile, there is no good reason why the authorities should not examine the question of penalty afresh. It is in this background that we consider it appropriate to dispose of this application with the following directions :-

If the petitioner files a representation to the revisional authority, it shall examine the same in the light of the observations which we have made in this judgment, and consider the question of reducing the penalty prospectively in a just and reasonable manner, looking into the entire matter with a sympathetic approach. This we are saying by way of indulgence. No costs.

Adige
(S. R. Adige)

Member (A)

Malimath
(V. S. Malimath)
Chairman

/as/