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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O. A. No. 757 of 1989

New Delhi this the 20th day of October, 1994

Mr. Justice S. K. Dhaon, Vice-Chairman
Mr. B. N. Dhoundiyal, Member

Shri Roshan Singh
R/o Railway Karamchari Society
Flat No. 57, Ashoka Enclave,
Peera Garhi, Old Rohtak Road,
New Delhi.

... Applicant

By Advocate Shri Mahesh Srivastava

Versus

1. 0 Union of India, service to be
effected through General Manager,
Northern Railway, Baroda House,
New Delhi.

2. Divisional Mechanical Engineer (P),
Northern Railway, Baroda House,
New Delhi.

... Respondents

By Advocate Shri O. P. Kshatriya

ORDER (ORAL)

Mr. Justice S. K. Dhaon, Vice-Chairman

Shri Roshan Singh, a Driver in the Northern Railway, was subjected to disciplinary proceedings. The proceedings commenced by his suspension from service on 10.02.1984. The same continued till his retirement on 30.06.1984 but could not be concluded. Thereafter, in accordance with Rule 9 of the Railway Services (Pension) Rules, 1993 (the Rules), the disciplinary proceedings continued. The President, in agreement with the recommendations of the Union Public Service Commission (the Commission), directed that the entire DCRG payable to Roshan Singh should be withheld. He also directed that 50% of the pension payable to him should be withheld on permanent basis. Roshan Singh felt aggrieved. Hence this application. During the pendency of this application Roshan Singh died. His widow and his three sons have been substituted in his place as his heirs and legal representatives.

S. K. Dhaon

We have gone through the record of the case which
has been placed before us by Shri O. P. Kshatriya, the learned
counsel for the respondents and we find that the findings
of the Enquiry Officer that Roshan Singh while driving
the train on a particular day acted negligently while
ignoring the on signal and took the train on loop No. 4 at
a high speed with the result that the train collided with
a steady train standing at the railway station. The Enquiry
Officer has relied upon the testimonies of witnesses
and, therefore, there appears to be no infirmity in his
findings. The Commission too has gone into the details
and has arrived at its own findings. The Commission has
agreed with the findings of the Enquiry Officer. The
President has accepted the findings of the Enquiry Officer
and the opinion of the Commission.

Learned counsel has urged that admittedly on
5.5.1984, a charge-sheet was given to Roshan Singh
and this was before his retirement from service. He states
that admittedly on 18.10.1984, an amended charge-sheet
was given to Roshan Singh and that was after his retirement
from service. He contends that the giving of the second
charge-sheet and the modification of the earlier charge-
sheet was not permissible under the law and, therefore,
the entire proceedings stand vitiated.

We have examined Rule 9 of the Rules and we find
that the argument does not find support from a reading
of the said Rule. Sub-rule (5) of Rule 9, inter alia,
states that for the purpose of Rule 9 departmental
proceedings shall be deemed to be instituted on the date
on which the statement of charges is issued to the
railway servant or pensioner, or if the railway servant has
been placed under suspension from an earlier date, on such
date. Thus, it is clear that under Rule 9, departmental

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proceedings commenced on 10.02.1984 when Roshan Singh was suspended from service. Assuming no charge-sheet was given to Roshan Singh on or before 30.06.84, proceedings would still be deemed to be pending after his retirement, as contemplated in Rule 9. It follows that even after his retirement and during the pendency of the disciplinary proceedings, a charge-sheet could be given. If that is so, it becomes immaterial that an amended charge-sheet was given after 30.06.1984. No prejudice has been caused to Roshan Singh by giving him a fresh charge-sheet or an amended charge-sheet.

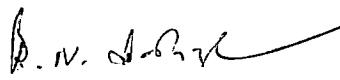
Learned counsel has next urged that the amended charge-sheet after the retirement of the applicant should have been given to him after obtaining a sanction from the President. Sub-rule (2) of Rule 9 has many parts. In the first part it is stated that if the departmental proceedings have been instituted while the railway servant was in service whether before his retirement or during his re-employment, ^{the same} shall after the final retirement of the railway servant, be deemed to be proceeding under Rule 9 and shall be continued and concluded by the authority by which they were commenced in the same manner as if the railway servant had continued in service. We are not concerned with the proviso (a) to sub-rule(2) of Rule 9 because that states

that the matter has to be referred to the President before passing ^a final order. Rule 9(2)(b) states that if departmental proceedings had not been instituted while the railway servant was in service, whether before his retirement or during his re-employment, the same shall not be instituted without the sanction of the President. That is not the situation here. We have already indicated and it is Roshan Singh's own case that the proceedings

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had been initiated against him while he was in service. Had the proceedings not been instituted during the continuance in service of Roshan Singh and that had taken place after his retirement, certainly the proceedings could not be initiated except with the sanction of the President. We, therefore, repel the submission of the learned counsel for the applicant.

This application has no substance and is dismissed but without any order as to costs.


(B.N. DHOUNDIYAL)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN

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