

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.1378/87

Date of decision: 11.12.199

Shri Umesh Chandra Kulsheshtha Applicant

Shri R.L.Sethi Counsel for the
Applicant.

VERSUS

Union of India Respondents

None for the respondents.

CORAM:

THE HON'BLE MR.JUSTICE V.S.MALIMATH, CHAIRMAN
THE HON'BLE MR. D.K.CHAKRAVORTY, MEMBER(A)

JUDGEMENT

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE
MR.JUSTICE V.S.MALIMATH, CHAIRMAN)

The applicant was holding the post of Station
Master at Mawanwada at the relevant point of time.

In connection with an accident, a disciplinary enquiry
was held against him alleging that it is on account of
misconduct on his part/there was an accident causing
considerable loss to the Railway administration. The
cause shown by the applicant was considered by the
Disciplinary Authority and an order imposing penalty
of withholding of ~~two~~ increments/without cumulative
effect was passed against him on 26.9.1984. The
punishment imposed is admittedly a minor penalty.

The said order was confirmed on appeal by the Appellate
Authority and further by the Revisional Authority.

The said order has been assailed by the applicant in
this case. He has also prayed for a direction to
consider his case for promotion in respect of the
vacancies that had occurred during this period.

2. The principal contention of Shri R.L.Sethi, the learned counsel for the applicant is that the Disciplinary Authority has not recorded any findings and has not assigned any reasons in coming to the conclusion that the applicant is guilty of the charge levelled against him. Though elaborate enquiry is not required to be held in cases where minor penalty like withholding of increments for a period of two years without cumulative effect is imposed, statutory Rule 11 of the Railway Servants(Discipline & Appeal) Rules, 1968 enjoins upon the Disciplinary Authority to record the finding on each of the imputations of misconduct or misbehaviour vide Rule 11(1)(d). On a perusal of the order of the Disciplinary Authority filed in this case as Annexure A-4, we are satisfied that the statutory requirement in this case has not been complied with. All that the order states is that " your explanation is not accepted." The Disciplinary Authority does not state as to what was the imputation, as to what was the explanation offered by the applicant and as to why the Disciplinary Authority did not find it possible to accept the explanation of the applicant. We are, therefore, satisfied that there is non-compliance with the statutory requirement of recording the necessary findings with reasons in support thereof. Though something more is stated in the Appellate Order and some reason is sought to be assigned in the Revisional order, we find that the main explanation offered by the applicant has not been considered by these two authorities as well. One of the principal contentions of the applicant is that he was not on duty on that day and, therefore, he is not responsible for communicating to the persons concerned, the charge for the shunting order. The view taken

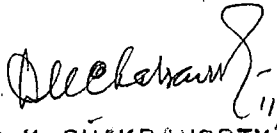
by the Revisional Authority is that the applicant was there on the spot and, therefore, did assume the responsibility for issuing directions in regard to the movement of the Railway vehicle. But then it has to be pointed out that there is no such clear imputation in the charges levelled against the applicant. In fact, we are inclined to take the view that the Appellate order and the Revisional order did not cure the defect of not recording the findings with reasons in support thereof. In the circumstances, we have no alternative but to quash the impugned order. Having regard to the gravity of the problem in this case, we think it just and proper to permit a fresh enquiry, if so desired, after issue of a fresh charge memorandum accompanied by an appropriate statement of allegations.


3. The other grievance of the applicant is that his case has not been considered for promotion during the last 7 years. Now that we have quashed the impugned order imposing the penalty, it is obvious that it becomes the responsibility of the authorities concerned to consider his case for promotion in his own turn in accordance with the relevant rules. We would make it clear that if the authorities decide to hold fresh enquiry, they are entitled to take that into account while considering the case of the applicant for further promotion.

4. For the reasons stated above, the OA is allowed and the impugned orders of the Disciplinary Authority, Appellate Authority and the Revisional Authority are hereby quashed, reserving liberty

to the respondents to hold a fresh enquiry, if they so desire, with all consequential benefits to the applicant to which he is entitled in the light of the above observations. If it is necessary to hold a fresh enquiry in the light of the observations made above, they shall do so most expeditiously.

No order as to costs.


(D.K.CHAKRAVORTY)
MEMBER (A)


(V.S.MALIMATH)
CHAIRMAN

SNS.