

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1632/91

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Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 13th day of October, 1995

Shri A.K.Srivastava
s/o Shri Lalit Mohan Srivastava
Working as Parcel Clerk
Northern Railway
Delhi
r/o 1/2981 Ram Nagar Exten.
Loni Road, Shahdara
DELHI.

... Applicant

(By Shri S.K.Sawhney, Advocate)

Versus

Union of India through

1. The General Manager
Northern Railway
Baroda House
NEW DELHI.

2. Area Railway Manager
Northern Railway
D.R.M. Office
Chelmsford Road
NEW DELHI.

... Respondents

(By Shri B.K.Agarwal, Advocate)

O R D E R (Oral)

Hon'ble Shri R.K.AHOOJA, Member(A)

The applicant was served with a chargesheet for minor penalty on 16.12.1988 on the ground that he had the been responsible for loss of some part consignment loaded by him in Train No.376 Dn. while on duty on 8.6.1987. After receiving the explanation a penalty of recovery of Rs.6000/- was imposed on the applicant. An appeal was filed against this order on 2.2.1989 (Annexure-A6) which was rejected vide order dated 3.5.1990. A Review Petition was also filed on 7.6.1990 which was also rejected vide order dated 17.6.1991(Annexure = A3). The applicant has come to this Tribunal aggrieved by the order of recovery

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and rejection of the two appeals thereon.

2. The learned counsel for the applicant has contended that the order dated 6.1.89 imposing the penalty states no reasons (Annexure - A6) or grounds for rejecting the explanation submitted by the applicant. Similarly, the order rejecting the appeal dated 3.5.1990 (Annexure-A2) is also non-speaking. It has been argued that the applicant was responsible for loading and sealing the consignment and the same had been received at the destination. When the appeal was filed against the impugned order the appellate authority had deputed a Van Train Inspector (VTI) for enquiry who submitted his report on 6.1.1989 (Annexure-A8). The report of the Van Train Inspector (Enquiry Officer) showed that the packages loaded from Delhi were correctly unloaded at the RMU by the concerned unloading clerk who had first entered the consignment in his unloading Book then later on deleted the entry. More importantly, the damage and deficiency post card (DDPC) which was required to be issued in case of short delivery was not issued which indicated that there was no short consignment received at the delivery yard. The Enquiry Report also showed that because of these lapses on Shri Radha Raman Sharma, Unloading Clerk was proceeded against and awarded punishment of withholding of increment permanently for three years and his appeal against that order was also rejected. The learned counsel for the applicant pointed out that the fact of this Enquiry Report has not been contravened by the respondents in their reply.

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3. The respondents in their reply have contended that the applicant did not put-forth any proof to contradict the charge against him. It has been contended that the applicant admittedly loaded and sealed the consignment and ⁱⁿ the face of this admission, the short arrival at the other end makes him responsible for the loss incurred by the Railways. It has also been stated that the Enquiry conducted as per the records held the applicant responsible.

4. After hearing the learned counsel on either side and perusing the pleadings in this case, we are of the considered view that no case was made out against the applicant. When the charge-sheet was issued and explanation of the applicant was called, he had stated that he had made the loading correctly and also obtained the signatures of the Guard. However, in the order inflicting the penalty, the disciplinary authority did not discuss any aspect of the explanation rendered by the applicant and disposed of the matter summarily by ordering the recovery of amount. Later, when the appeal was filed, the appellate authority considered it appropriate to depute an Inspector for enquiry but even though, the said Inspector in his enquiry report, had pointed out that the applicant was innocent, since there was every indication of all the consignment having not been received intact and had further also that unloading clerk at the receiving station had to be punished for not complying with the procedure prescribed in the case of short delivery. The appellate authority without

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giving any reasons for disagreeing with the enquiry report, proceeded to reject the appeal. The contention of the respondents that the enquiry conducted as per the records held the applicant responsible is not also borne out since no enquiry ^{other} ~~other~~ than the aforementioned one by the Van Train Inspector is on record which in any case proves that the applicant is innocent of the charge.

5. In the above circumstances, the application is allowed and the impugned order dated 16.6.1989 is quashed. The respondents are directed to refund the amount of recovery from the applicant as a result of the impugned order within two months from the date of this order of copy received. There shall be no order as to costs.

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(R.K.AHOOJA)
MEMBER(A)

(A.V.HARI DASAN)
VICE-CHAIRMAN(J)

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