

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1043/1993

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New Delhi, this the 29th day of October, 2001

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Ramji Lal,
S/o Shri Jai Narain
Presently resident of F-238, Raj Nagar-II
Palam Colony, New Delhi - 45.

(By Advocate Shri V.P.Sharma)

...Applicant

V E R S U S

UNION OF INDIA : THROUGH

1. The General Manager
Western Railway
Churchgate, Mumbai.
2. The Divisional Railway Manager
Western Railway, Jaipur.
3. The Sr. D.M.E.,
Western Railway, Jaipur.
4. The Secretary
Railway Board, Rail Bhawan
New Delhi.

(By Advocate Shri D.S.Jagotra)

...Respondents

O R D E R (ORAL)~

By Shri Shanker Raju,

The present OA has come up before us for adjudication after the decision of this Court in OA 1043/93 on 2-3-2001 has been reviewed on the ground that there is an error apparent on the face of record. Where as the applicant was shown to be a deceased, and it has been observed that his punishment has been reduced from removal from service to compulsory retirement, which is not correct as per the record.

2. Briefly stated, the applicant was proceeded against in a disciplinary proceedings by way of issuance of major penalty under SF-5 of the Railway Servants (Discipline and Appeal) Rules, 1968 on the

ground that while performing his duty as Fireman-I with Shri Ram Lal, Driver on Train No.4737 up committed misconduct and it has been alleged that the applicant while driving the train was under the influence of Liquor with the result the steam engine has to be replaced by diesel engine resultant delay in running of the train. The disciplinary authority imposed punishment of removal from service, which has been affirmed by the appellate authority as well as the revisional authority. The co-defaulter of the applicant Gajraj Singh, who was functioning in the same engine as Fireman-II and against whom the allegations of being intoxicated resulting in fire from the engine has been alleged and later on died during the pendency of the Review Petition. General Manager, keeping in view the family condition of the applicant, modified the punishment and reduced it to compulsory retirement. The learned counsel for the applicant while placing reliance on a decision of this Court in Gajraj Singh Vs. Lt. Governor of Delhi & Anr. (OA 2437/1996) decided on 3-5-2000 contended that in a similar circumstances, where the issue of punishment was involved, and the Tribunal, keeping in view the punishment being dis-proportionate, in view of the decision of the Apex Court in B.C.Chaturvedi Vs. UOI & Ors. (JT 1995 (8) SC 65) has remanded back the case to the respondents for re-consideration in the matter of quantum of punishment.

3. The learned counsel for the respondents has stated that the applicant has committed a grave mis-conduct and being charged as found in a intoxicated condition and misbehaved with Guard has been imposed a correct punishment, which is quite

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proportionate to the charge. As regards the version of penalty of co-defaulter, the same has not been taken into consideration.

4. We have carefully considered the rival contentions of the parties. The present OA is disposed of on the basis of the decision of the Hon'ble Apex Court in B.C.Chaturvedi's case (supra), wherein it has been observed that if Tribunal feels that the punishment is shockingly dis-proportionate, it should remand back to the respondents for re-consideration on quantum of punishment. We also find that the co-defaulter of the applicant, who has been charged for the the same mis-conduct has been on revision by his widow awarded the punishment of compulsory retirement, entitling her widow of reetiral benefits. Not meeting out similar treatment to the applicant, who is identically situated would offend the principles of equality enshrined in Articles 14 of the Constitution of India. Applicant in the present case has already completed a qualifying service of 18 years. The respondents should re-consider the proportionality of punishment. As such the orders passed in revision are quashed and set aside. The matter is remanded back to the Revisional Authority for passing a detailed and speaking order regarding the quantum of punishment in view of the decision taken by this Tribunal in Gajraj Singh's case (supra) as well as decision taken in the case of co-delinquent Gajraj Sigh, within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju

(Shanker Raju)
Member (J)

/vikas/

(Govindan S. Tampi)
Member (A)