

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1304 OF 1997
ALLAHABAD THIS THE 18TH DAY OF MARCH, 2004

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A
HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

Mukhtar Hussain,
son of Sri Nisar Hussain,
working as Assistant Station Master,
Sisarka, Northern Railway,
District-Moradabad. Applicant

(By Advocate Shri A.K. Gupta & Shri R.S. Pandey)

Versus

1. Union of India,
through its Ministry of Railway,
New Delhi.
2. Divisional Railway Operating Manager,
Northern Railway, Moradabad.
3. Chief Operating Manager,
Northern Railway, Baroda House,
New Delhi.

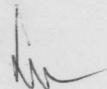
..... Respondents

(By Advocate Shri A.V. Srivastava)

ORDER

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

In this O.A. filed under section 19 of Administrative Tribunals Act 1985, the applicant has prayed for quashing the impugned appellate order dated 06.09.1994 (Annexure A-1) by which the applicant has been brought down from scale of Rs. 1400-2300/- to the scale of Rs. 1200-2040/- fixing the



applicant's pay at Rs.1200/- from Rs.1520/- which he was drawing for a period of three years with cumulative effect. The applicant has also challenged the order dated 28.08.1997 (Annexure A-2) passed by the revisionary authority by which the revision petition of the applicant has been rejected.

2. The facts, in short, giving rise to the controversy in this O.A. are that the applicant was working as Assistant Station Master (ASM) in the respondents establishment since 04.09.1982. On 24.12.1992, while the applicant was on duty as ASM at Munda Pande Railway Station an accident took place. ^{to the} As per applicant/apprehended threat to his life from the irate passengers. The applicant ~~ran~~ away from the site to report the matter at the police station. The applicant was suspended vide order dated 04.01.1993. He was served with major penalty chargesheet dated 18.01.1993. An enquiry was held, the Enquiry Officer submitted his report on 27.12.1993 and the disciplinary authority passed the punishment order dated 17.02.1994 awarding the punishment of removal from service. The applicant filed an appeal before the appellate authority on 25.03.1994 and the punishment of removal awarded by the disciplinary authority was modified to that of reduction in grade from Rs.1400-2300/- to Rs.1200-2040/- fixing the pay of the applicant at the minimum i.e. Rs.1200/- for a period of three years with cumulative effect. The applicant filed a revision petition on 10.03.1995 which has been rejected by the impugned order dated 28.08.1997 (Annexure A-2). Aggrieved by the same the applicant has filed this O.A. which has been contested by the respondents by filing CA.

3. We have heard counsel for the parties, considered their submissions and perused records.



4. The learned counsel for the applicant inviting our attention to para 4.c of the impugned order dated 06.09.1994 submitted that even the appellate authority has accepted that the responsibility for causing the accident rests with the driver; The driver overshot the engine and collided with the stationery train. In fact the applicant cannot be held guilty for the same.

5. The learned counsel for the applicant also assailed the report of the Enquiry Officer (Annexure A-5) pointing out that in the first charge which has been stated to be proved by the Enquiry Officer the facts have not been brought out that the driver of Train No.4230 down overshot the engine and collided with Train No.4266 down. Truly speaking the applicant cannot be held responsible for the mistake of the driver of Train No.4230 down. The Enquiry Officer has committed grave error in ignoring this aspect of the case.

6. The learned counsel for the applicant further submitted that the applicant has been doubly punished indirectly. First that he has been brought down from higher scale to a lower scale and secondly that it has resulted into bringing down the seniority of the applicant and consequently his promotion etc.

7. Shri A. V. Srivastava, learned counsel for the respondents, opposing the claim of the applicant submitted that the observation of the appellate authority that the primary responsibility for causing the action rests with the driver/absolve the applicant from his responsibility. The enquiry has been conducted as per the rules and the Enquiry Officer went into the charges levelled against the applicant which he was supposed to do. The Revisionary authority in the impugned order dated 28.08.1997 (Annexure A-2) has

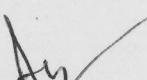
dealt with this aspect of the case.

8. The learned counsel for the respondents further submitted that since there was no casualty, the plea of the applicant that he had threat to his life from the irate passengers is unfounded and he could not run away from the place of his duty. We find substance in this submission of ^{in there} the respondent's counsel and admittedly ~~if~~ was no casualty, therefore, the applicant deserting the place of his duty cannot be justified at all.

9. We have perused the impugned appellate order dated 06.09.1994 and also the order of the Revisionary authority dated 28.08.1997 carefully. Both the orders are reasoned orders in which the various aspects have been well considered. We do not find either of the orders suffering from any error of law. Two charges stand proved as per Enquiry Officer and the same are serious calling for punishment.

10. We would also like to observe that a full fledged enquiry was held. The applicant participated in it. He was supplied with the report of the Enquiry Officer and only then the various orders were passed. The applicant was given full opportunity to defend himself and there has been no violation of Principles of Natural Justice. There is no good ground whatsoever calling for our interference.

11. In the facts and circumstances and our aforesaid discussions the D.A. is dismissed being bereft of merit. No costs.


Member-J


Member-A

/Neelam/