

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated: Allahabad, the 23rd day of January, 2001

Coram: Hon'ble Mr. S. Deyal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

ORIGINAL APPLICATION NO. 471 OF 1998

Lallan Pandey,
s/o Gaya Pandey,
Assistant Station Master,
Eastern Railway,
Mughalsarai.

..... Applicant
(Sri V. Singh, Advocate)

Versus

1. Union of India through the Secretary,
Ministry of Railway, Rail Bhawan,
New Delhi.

2. Divisional Safety Officer,
Eastern Railway,
Mughalsarai.

3. Senior Divisional Operation,
Manager, Eastern Railway,
Mughalsarai.

4. Additional Divisional Railway,
Manager, Eastern Railway,
Mughalsarai.

(By Advocate Sri A. Tripathi) . . . Respondents

ORDER

(OPEN COURT)

(By Hon'ble Mr. Rafiq Uddin, JM)

The applicant Sri Lallan Pandey, who was working as leave reserve Station Master at Muthani Railway Station, Eastern Railway, Mughalsarai,

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was served with a charge-sheet dated 26.7.96, a copy of which is filed as Annexure No.5 to the OA. It was alleged that while the applicant was on duty at Muthani on 19/20th February, 1996 from 1700 hrs. to 0100 hrs. shift duty, he obtained line clear from B.B.U. for 2301 Up train (Rajdhani Express). After granting line clear to PSE/WC, he lowered all the reception and despatch signals for Up line at 23.49 hrs. He received train entering section report from PSE/WC at 23.57 hrs. and suddenly ITI track circuit became 'Red' and UP Home signal also became 'Red'. The applicant handed over Relay Room key to Sri P.K. Singh, ESM without issuing signal failure memo and endorsing in SI -24 Register and getting signature in Cabin basement key register. He, on the other hand, mentioned this fact in the Station Master's diary against the instruction. The applicant also failed to keep the register in his possession after the accident and fled away from the Railway Station. It was specifically alleged that the applicant failed to issue signal failure Memo violating Joint Circular No.GA/Policy/MGS/95 dated 23.5.95, and also did not endorse the said failure in the prescribed register SI-24 in violation of BWM/L-3.06B and the applicant also handed over Relay Room key to Sri P.K. Singh, ESM without obtaining his signature in Cabin basement key register, and violated Joint Circular No.GA/Policy/MGS/95 dated 23.5.95. The applicant also fled away from duty without keeping his record in safe custody and making over charge to his relief, who was alleged to be present at the station at the time of accident of Rajdhani Express and was found

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missing from the station and, thus, he violated GR 14.07. A departmental enquiry was conducted against him and the Enquiry Officer, vide his report (Annexure No.11 to the OA) found the charges framed against the accused as correct. The disciplinary authority, namely, the Divisional Safety Officer after considering the report of the Enquiry Officer accepted the ~~same~~, vide order dated 10.3.1997 and found the applicant guilty of all the charges levelled against him as proved and passed the punishment order of removal from service with effect from 1.4.1997. The applicant submitted appeal against the aforesaid order on 30.3.1997 before the Senior Divisional Operating Manager, which was decided vide order dated 1.9.97. By the said order, the appellate authority allowed the appeal to this extent that the applicant was directed to be reinstated in the service as A. S.M. with effect from 30.8.97 and his period of removal from service from the date of reinstatement was ordered to be converted into Extraordinary Leave. Thereafter, the applicant also filed a Revision before the Additional Divisional Railway Manager, Eastern Railway, Respondent no.4, which was dismissed by him by an order dated 26.12.97 (Annexure No.17 to the O.A.). By means of this O.A., the applicant has challenged the validity of the order dated 10.3.97, passed by the disciplinary authority and the order dated 1.9.97 passed by the appellate authority and also the order dated 26.12.97 passed by the Revisional authority.

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2. The main grounds on which the applicant has challenged the validity of the orders are that the applicant was not at fault in respect of the accident of Rajdhani Express, which took place on the date of occurrence, because the same did not occur due to any negligence on his part. Thus, the applicant has been reverted without any fault on his part. It is stated that the Respondents did not supply material documents during disciplinary proceedings, as a result he was not in a position to defend him properly and the same amounts to denial of principle of natural justice. It is also claimed that the impugned orders have been passed without assigning any reason.

3. We have heard arguments of the learned counsel. It is relevant to mention at the outset that the scope of interference by the Tribunal in the findings recorded by the Enquiry Officer is very limited. It cannot be interfered, when it is proved that the enquiry was ~~not~~ ¹² conducted properly and the applicant was ~~not~~ ² given full opportunity to defend himself and there was any violation of principle of natural justice, while conducting the enquiry.

4. We find from the perusal of the record that the allegations mentioned in the charge-sheet are almost admitted by the applicant. It is, however, contended by the learned counsel for the applicant that the action of the applicant was justified under the circumstances, because he had no time

to comply with the requirements of the instructions.

~~R~~ The same was concealed by Sri P.K. Singh. However, we find that the Enquiry Officer after considering the findings has concluded that this failure on part of the applicant is fully proved. As regards failure of the applicant in not making entry in the relevant and prescribed register in SI-24, it is stated that the applicant recorded the incident in the SM's diary, but it is admitted that there is no provision of making entry in the Station Master's diary and, therefore,, the charge against the applicant is fully established. There is also finding of the Enquiry Officer on the charge that the applicant failed to obtain the signature of Sri P.K. Singh, when he allegedly handed over the basement key to him. The applicant failed to prove his contention before the Enquiry Officer by showing any document in support of his contention. As regards the applicant having run away from the station at the time of accident, it is stated by the learned counsel for the applicant that it was justified, because duty hours of the applicant was over.

We find from the findings of the Enquiry Officer that the applicant requested his reliever Sri Moin-Uddin to take charge at $003\frac{1}{2}$ hrs, whereas duty hours was 1 p.m. to 9 p.m. and he refused to take charge on the plea that before recording of position by the Senior Supervisor, he will not take charge.

Considering the fact that the accident ~~took~~ ^{had taken} place and the applicant run away from the station without handing over the charge, there is no justification on part of the applicant to run away from the station.

It is also not proved that the duty hours of the applicant were over at the relevant time.

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5. As regards non-supply of certain documents, plea of the applicant appears to be very vague, because it has not been mentioned as to which document was not supplied and how he was prejudiced by not supplying the documents. Even in his appeal submitted before the appellate authority, the applicant did not make any mention about his grievance of non-supply of documents by the Enquiry Officer. The documents mentioned by the learned counsel for the applicant were also neither relied on by the Enquiry Officer nor the same except 1 to 3 were mentioned in the list of documents and copies of which were duly supplied to the applicant. We, therefore, do not find force in the arguments of the learned counsel for the applicant on this point that the applicant has been deprived of opportunity to defend him by not supplying certain documents.

5. It has been lastly urged by the learned counsel for the applicant that the disciplinary authority, namely, Divisional Safety Officer is not competent to impose punishment on him, because he is not the appointing authority and has referred to the Railway Board's letter No. DA 94 RG 69 dated 4.8.97, in which it has been stated that henceforth only Sr. D.O.M./D.O.M. will exercise disciplinary powers in respect of the operating staff even on the matters relating to violation of safety norms. We find that the impugned orders have been passed ² ~~order instruction~~ in March, 1997, whereas the ~~instruction~~, in question, is dated 4.8.97. Therefore, provisions of instructions are not available to the applicant in the present case.

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The learned counsel for the Respondents has also pointed out that admittedly the plea of the applicant that the Divisional Safety Officer is not competent to pass punishment order was added in the O.A. later on and in the copy supplied to him, amendments were not incorporated therein. Therefore, the learned counsel for the Respondents is not in a position to give any reply to this pleading. The learned counsel for the applicant has stated that the Apex Court has held in some cases that the Divisional Safety Officer is not competent to impose punishment on the operating staff. The learned counsel for the applicant is not in a position to show any authority of the Apex Court and, therefore, in the absence of any view contrary, it is not possible to express any view on this point and we cannot presume that ^{any} ~~Senior~~ Divisional Safety Officer has no jurisdiction or power to pass order of punishment at that time.

6. In view of what has been stated above, we do not consider that there is any merit in the case and the O. A. is dismissed.

No order as to costs.

Ram Nath

J.M.

A.M.

Nath/