

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 31st day of JANUARY 2005.

Original Application no. 1428 of 2001.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman
Hon'ble Mr. S.C. Chaube, Member A

Vijay Pratap Rai, S/o Sri R.N. Rai,
R/o Vill Harkanapur, Post & Thana Bare,
Distt. Ghazipur (UP).

... Applicant

By Adv : Sri S.S. Sharma

V E R S U S

1. The Union of India through,
The General Manager, Northern Railway,
Headquarters Office, Baroda House,
NEW DELHI.
2. The Chief Operating Manager,
Northern Railway, Headquarters Office,
Baroda House, New Delhi.
3. The Additional Divisional Railway Manager,
Northern Railway, D.R.M. Office, Bikaner.
4. The Senior Divisional Operating Manager,
Northern Railway, D.R.M. Office,
Bikaner.
5. Traffic Inspector, Northern Railway,
Suratgarh.

... Respondents

By Adv : Sri A.K. Gaur

O R D E R

By Justice S.R. Singh, VC.

Head Sri S.S. Sharma, learned counsel for the
applicant and Sri A.K. Gaur, learned counsel for the
respondents.

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2. While the applicant was working as Pontsman dated 04.11.1999 he was served with the chargememo/which ultimately resulted in order of removal from service, passed by the Disciplinary Authority. By the said order the applicant was removed from service with immediate effect. Aggrieved against the said order, the applicant preferred an appeal dated 17.11.1999 which came to be dismissed by order dated 17.01.2000. The appellate order dated 17.1.2000 reads as under :-

"No. 6-A/4/98
Dated Jan 17,2000

DRM's Office
Bikaner

ORDER ON THE APPEAL

Shri Vijai Pratap Rai,
Ex P. Man 'A'/TLI
(Through SS/TLI)

With reference to your appeal dated 17.11.1999 addressed to ADRM/Bikaner against the orders of Sr. DOM/Bikaner imposing the penalty of "Removal from service" on you. You are hereby informed that ADRM/BKN has passed the following orders:-

I have carefully gone through the appeal submitted by Shri Vijay Pratap Rai, Ex Pointsman of TLI station alongwith other relevant record available in the file.

After going through the record I find that Sh. Vijay Pratap Rai is fully responsible for setting route and lowering of the signals of line No. 1 of the station 7.10.98 on which 2 SH train was already waiting, for receiving train No. 9712 Dn, JP express. It was due to the alertness of the driver of 9712, the major head an collision could be avoided.

There is no mercy in such types of cases and the appeal submitted by Shri Vijay Pratap Rai is rejected.

It is open to you to make a revision application to the General Manager, New Delhi for a revision of the penalty imposed on him

Signature
Designation

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The revision preferred against the said order came to be dismissed vide order dated 09.07.2000. It has been contended by the applicant's counsel that neither the Appellate Authority nor the Reivisional Authority considered the points raised by the applicant in his memo of appeal/revision challenging the legality of the order of removal. It has been submitted by the applicant's counsel that the appellate order and also revisional order has been passed in a machenical manner without proper selfdirection to the requirement of Rule 22 of the Railway Servant (D & A) Rules, 1968. The submission made by the learned counsel for the applicant carries substance. Rule 22 of Railway Servant (D&A) Rules 1968 enjoys a duty upon the Appellate Authority to "consider" the points raised by the delinquent in his memo of appeal vis-a-vis factors indicated in the rules.

3. It cannot be gainsaid that appeal is not an empty formality and the Appellate Authority must address itself to the points raised by the ^{Appellant} applicant in his memo of appeal and take the decision. The view taken, finds support from the decision in case of Ram Chander Vs. Union of India & Ors, 1986 SCC (L&S) 383, wherein the order passed by the Railway Board without any attempt on the part of the Board either to marshal the evidence on record with a view to decide whether the finding arrived at by the disciplinary authority could be sustained or not was set aside being an order passed in machenical manner without any indication that the Board applied its mind as to whether the act of misconduct with which the appellant was charged togehter with the attendant circumstances and the past record of the appellant were such that he should have been visited with the extreme

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penalty of removal from service. In the circumstances, therefore, we are of the view that the appellate order and the revisional order both are liable to be set aside.

4. Accordingly, the OA succeeds and is allowed. The appellate order and revisional order impugned herein are set aside. The matter is remitted to the Appellate Authority to decide the appeal afresh in accordance with law after proper self direction to the evidence on record and the grounds taken by the applicant in his memo of appeal. The decision in this regard shall be taken by the Appellate Authority within a period of three months from the date of receipt of copy of this order.

5. There shall be no order as to costs.

S. Shank
Member A

Paranjpye
Vice-Chairman

/pc/