

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This is the 23rd day of September, 2021

ORIGINAL APPLICATION NO. 983 of 2011

**HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)
HON'BLE MS. PRATIMA K GUPTA, MEMBER (J)**

Sunil Kumar Gautami aged about 51 years, son of Shri N.D. Gautami resident of 457/2, Khusipura, Jhansi.

.....Applicant.

Advocates for the Applicant : Shri Ashish Srivastava

VERSUS

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Chief Personnel Officer, North Central Railway, Allahabad.
3. Divisional Railway Manager, North Central Railway, Jhansi.

.....Respondents

Advocate for the Respondents : Shri P. Mathur.

O R D E R

BY HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)

Heard Shri Ashish Srivastava, learned counsel for the applicant and Shri P.K. Mishra holding brief of Shri P. Mathur learned counsel for the respondents.

2. This matter has come in second round of litigation. The applicant is aggrieved by the disciplinary proceedings which culminated in imposition of major penalty. He seeks following reliefs by virtue of the present OA:-

- “(i) *To issue a writ, order or direction in the nature of certiorari quashing the impugned orders dated 29.5.2009 (Annexure A-1), dated 16.2.2010 (Annexure A-II) and dated 6.5.2011 (Annexure A-III).*
- (ii) *to issue another writ, order or direction in the nature of mandamus thereby commanding the respondents to issue appropriate order immediately declaring that no further disciplinary action was required in view of the punishment having already undergone by the applicant as observed by this Hon'ble Tribunal in para 5 of the judgment dated 3.12.2008 in OA No. 132/2005, allowing all consequential benefits for which a time bound order is fervently prayed;*
- (iii) *To issue any other suitable order in favour of the humble applicant as deemed fit by this Hon'ble Tribunal in the facts and circumstances of the case.*
- (iv) *To award heavy damage and cost of the application in favour of the humble applicant”.*

3. This Tribunal in OA No. 132/2005 had quashed the order of penalty imposed upon the applicant and given a categorical ruling that “*the proceedings initiated against the applicant, stands vitiated*”.

4. Pursuant to this direction, the disciplinary authority has passed an order bearing number P-19/4695/CVC/CON dated 29.05.2009, which is *prima facie* is cryptic and non-speaking order. The disciplinary authority has relied upon the already concluded disciplinary proceedings and this amounts to basing the decision on ‘vitiated proceedings’ and has imposed a penalty of reduction of pay in a time scale. In the earlier OA, while holding that the proceedings stand vitiated, this Tribunal had also specifically recorded the reasons for the same that the second chargesheet was served upon the applicant without cancelling the first one and also that the documents relied

upon in support of the chargesheet was not proved by the solitary prosecution.

5. Learned counsel for the respondents argues that since the enquiry had already been conducted, the disciplinary authority was to rely only upon the enquiry report and make a fresh appreciation of evidence and documents on record. He also draws attention to the concluding sentence in the order in the earlier OA wherein the Tribunal had "referred the matter back to the disciplinary authority to take action against the applicant as per rules".

6.. We have no doubt in our minds that once the proceedings are vitiated, the entire exercise is required to be conducted de-novo and, relying upon the earlier chargesheet and enquiry report would vitiate subsequent proceedings too. The present order dated 29.05.2019 imposing the penalty upon the applicant, therefore, cannot be sustained.

7. In view of the above, the OA is allowed and the impugned order No. P-19/4695/CVC/CON dated 29.05.2009 is quashed. Consequently the subsequent orders passed in appeal and revision also stand quashed. The applicant has since long retired hence, all consequential benefits which may accrue to him on the strength of this order may be sanctioned and released in his favour within a period of six weeks from the date of receipt of a certified copy of the order. All pendings MAs are also disposed of. No order as to costs.

(PRATIMA K GUPTA)
Member (J)

Manish/-

(TARUN SHRIDHAR)
Member (A)