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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.389 of 1987.

Pratap Singh Applicant

Versus

Union of India & Others Respondents.

Hon.S.Zaheer Hasan, V.C.

Hon. Ajay Johri, A.M.

(By Hon.S.Zaheer Hasan, V.C.)

This is an application under Section
19 of the Administrative Tribunals Act XIII of 1985.

2. On 19.12.85 a charge memo was submitted against the applicant. ~~with the allegations that~~ He, while working as Driver NDAZ special goods train on 15.11.85, is charged with neglect of duty and careless working in that while approaching EDA station, he passed DN outer signal of EDA Station at ON position and stopped short of DN Home signal. Thus he violated GR 3.80(1) of GR SR Book. The applicant submitted his explanation. The complaint was filed and one D.L. Khatri, Asstt. Station Master was examined as prosecution witness. The applicant produced N.R.Soni, Guard as his defence. The Guard admitted that none of the station staff had apprised that ~~my~~ train driver passed EDA station outer signal at 'ON' position. He supports the applicant's case. The applicant himself has denied the charge. The only witness produced was

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D.L. Khatri, A.S.M. and he has stated that he did not pass any special remark of the happening in the diary and as a prosecution witness he cannot establish the case against the applicant within the rule. The Inquiry Officer held that D.L. Khatri, miserably A.S.M. has ~~completely~~ failed to establish the charge against the delinquent employee. He further observed that no message to this effect was passed and the relevant distance was not measured. No confrontation was done in this connection with the driver or the Guard. So the prosecution has failed to establish the charge against the delinquent official. The disciplinary authority did not agree with the finding of the Inquiry Officer on the ground that the Station Officer had no reason to submit a false report. This was hardly a good ground for rejecting the finding of the Inquiry Officer. The defence has suggested the reasons for giving a false report which can be true and no finding was given on the defence version set up in this connection. In any case the finding of the Inquiry Officer could not be rejected merely on the ground that there was no sense in lodging a false report. In other words he convicted the 'accused' on the basis of 'complaint'/'FIR', without any oral or the other documentary evidence. If D.L.Khatri had made any statement on previous

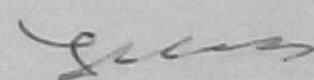
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occasion its copies should have been supplied to the applicant and the same should have been put on the file after confronting it to the witness. But nothing like that was done. In short it is a case of no evidence and the disciplinary authority was not justified in disagreeing with the finding of the Inquiry Officer on the ground that the staff had no reason to submit a false report. The original punishment of removal from service in appeal was set aside and the applicant was reverted to the post of DSL Assistant fixing his pay at the maximum of the grade for a period of three years. In view of the above, the punishment awarded to the applicant is quashed. Parties to bear their own costs.

अजय नारायण
Member (A)


Vice Chairman

Dated the 24 March, 1988.

RKM