

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD-BENCH, ALLAHABAD.

Registration No.- O.A. 320/88

Raj Narain

.....

Applicant.

Versus

Union of India & Other's....

Respondent's.

Hon'ble Mr. A.B. Gorthi-A.M.

Hon'ble Mr. S.N. Prasad-J.M.

(By Hon'ble Mr. A.B. Gorthi-A.M.)

Departmental disciplinary proceedings held under the Railway Servants (Discipline and Appeal) Rules 1968 in respect of Shri Raj Narain have been challenged in this application under Section 19 of the Administrative Tribunal Act 1985. The reliefs sought by the applicant are that the order of punishment as also the order by which his appeal was rejected be quashed and that he be reinstated in his post of Pointsman Grade-A with all consequential benefits.

2. The applicant, Shri Raj Narain, joined the Central Railway as an Assistant Pointsman (Rs. 750-940) in Sept.-1966. He was in due course promoted to Points Man Grade-B (Rs. 800-1250) in 1972 and Points Man Grade-A (Rs. 950-1500) in 1980. On 8 Dec. 1985 when the applicant was the Points-Man grade 'A' at Banda, there was a derailment of the engine and a bogie of 527 Down Passenger Train at Banda Yard. The applicant was charged with neglect of duty, in that, he while performing duty on 8-12-85 failed to ensure correct setting and locking of D/ Switch No.1 before handing over starting permit and line clear token to the driver of 527 Dn. Banda-Kanpur Passenger Train, which caused the derailment. An inquiry was held on the conclusion of which the Inquiry - Officer held the applicant not guilty of the charge. The disciplinary authority however disagreed, found the applicant

guilty of neglect resulting in the derailment of 527 Dn. Passenger and punished him "to be reduced to lower post of Assistant Pointsman in the grade of Rs. 750-940 fixing the pay at the stage of Rs. 750 permanently. An appeal against the same was rejected by the D.S.O. Jhansi.

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3. While admitting the ^{essential} ~~natural~~ facts stated by the applicant, the respondents stated that the applicant was dealt with in accordance with law and rightly punished for his neglect of duty.

4. Shri R.R. Shiv Hare, learned counsel for the applicant challenged the validity of the punishment on the following grounds:-

(A) The applicant was denied due opportunity to defend himself during the inquiry as all the documents that he wanted were not supplied to him and that the Assistant Station Master on duty was not examined as a witness.

(B) The disciplinary authority did not give reasons for disagreeing with the Inquiry Officer's findings but arbitrarily held the applicant guilty and punished him.

(C) The punishment awarded is illegal as it is not sanctioned by Rule 6 of the Railway Servants (Discipline and Appeal) Rules 1968.

5. Shri A.K. Gaur, learned counsel for the respondents showed us the inquiry proceedings and argued that the inquiry was conducted fairly and full opportunity was given to the applicant to defend himself. Most of the documents which he wanted, he was either supplied or allowed to inspect. Non-examination of the A.S.M. on duty as a witness did not prejudice the applicant in his defence. We agree that the inquiry cannot be assailed as faulty.

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6. On the next contention raised by the learned counsel for the applicant, the punishment order itself shows that the disciplinary authority discharged no reasons what so ever for disagreeing with the Inquiry Officer's findings exonerating the applicant. The disciplinary authority merely recorded his finding holding the applicant guilty and imposed the Punishment "looking at the gravity of the case, i.e. involvement of Passenger carrying train". It has been held in Narain Misra Vs. State of Orissa, 1969 SLR 658 that when the disciplinary authority does not agree with recommendation of the Inquiry Officer exonerating the delinquent employee, the disciplinary authority should give reasons for so disagreeing, so that the employee has a fair chance to represent against the same. Recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached in accordance with law and is not the result of whim or fancy. The neccessity to record reasons is greater if the order passed is subject to appeal. The order of punishment (Annexure-VII) is therefore liable to be quashed.

7. The last issue raised by the learned counsel for the applicant has also considerable force in it. The applicant was reduced from Points Man grade-A (Rs. 950-1500) to the lowest grade of Assistant Points Man (Rs. 750-940) and not to the lower grade of Points Man grade B (Rs. 800-1200), Rule 6(VI) of the Railway Servants (D & A) Rules provides for the following major penalty:-

(VI) Reduction to a lower time scale of pay, grade, post or service, with or without further directions regarding conditions of restoration to the grade or post of service from which the Railway Servant was reduced and his seniority and pay on such restoration to that grade, post or service;

8 The punishment awarded in this case is in for excess of the true scope of Rule 6(VI), as the applicant was reduced not

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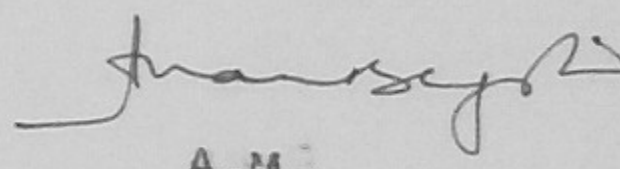
only to the lowest grade (instead of a lower grade) but also to the lowest stage in the scale of pay. There is difference between 'lower' and 'lowest' and the former does not include the latter. The punishment is thus in excess of what is authorised under Rule 6(VI) and cannot therefore stand.

9 In the result, we set aside the punishment order at (Annexure-VII), as also the appellate authority's order at Annexure IX to the application. The applicant shall be deemed to continue as Points Man grade 'A' and shall be entitled to all the consequential benefits, both monetary and otherwise. It will of course be open to the Respondents to proceed against the individual, if they so choose even at this belated stage, from the stage of the completion of the Inquiry.

10 The application is allowed in the above terms without any order as to costs.



J.M.



A.M.

Date-29 Nov.91