

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...  
O.A. No.581 of 1988

Dated: 12 June, 1995.

Hon. Mr. S. Das Gupta, A.M.  
Hon. Mr. T.L. Verma, J.M.

N.S. Chauhan, son of Shri  
M.D. Singh, at present working as  
Chief Permanent Way Inspector,  
Northern Railway, Charkhi Dadri  
Bhiwani. ... ... ... Applicant.

( By Advocate Sri Devendra Pratap Singh )

VERSUS

1. Divisional Railway Manager/  
Additional Divisional Railway  
Manager, Northern Railway,  
Allahabad.
2. Divisional Superintending Engineer,  
Northern Railway,  
Allahabad.
3. Union of India through G.M.  
N.Rly. Headquarter, Baroda House,  
New Delhi. ... ... ... Respondents.

( By Advocate Sri A.K. Gaur )

O R D E R  
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( By Hon. Mr. S. Das Gupta, Member (A) )

The applicant was working as Permanent Way  
Inspector under the Assistant Engineer, Northern  
Railway, Mirzapur. On 17.4.1984, a Food Grain  
Special ~~Special~~ derailed at level crossing No. 10 near the  
West Cabin of of Railway Station near Mirzapur. An  
inquiry was held by a committee which found one R.P.  
Srivastava, Station Master, Berohi and one J.P.

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Singh, Deputy Chief Controller, Allahabad as the main persons responsible for the incident, apart from one Lal Ram Switchman West Cabin, Berohi. The applicant was also found responsible for violating the provisions of Rule 204-a<sup>and</sup> 1406-a of Way Works Manual and G & S.R. Rules, 15.02. A copy of the extract of the findings of inquiry is at Annexure- A 1. On the basis of the inquiry report, the applicant was charge-sheeted for major penalty. A copy of the charge-sheet dated 23.8.1984 is at Annexure- A.2. A departmental inquiry was held and the inquiry officer in its report submitted on 31.12.1984 (Annexure- A 3) found the applicant partially responsible for the failure of track maintenance in his capacity as overall Section Incharge and <sup>recommended</sup> requested minor penalty. The disciplinary authority, however, by the impugned order dated 11.1.1985 (Annexure- A 4) imposed a penalty of stoppage of 3 increments postponing future increments with cumulative effect. The applicant preferred an appeal which was rejected by the impugned order dated 6.1.1988 (Annexure- A 5), Thereupon, the applicant filed this O.A. under Sec. 19 of the Administrative Tribunals Act, 1985 challenging both the order of the disciplinary authority and the appellate order seeking the relief of quashing both the orders with all consequential benefits of pay, seniority, promotion etc. which the applicant has been deprived of on account of the penalty imposed on him.

2. The applicant's case is that he was neither directly nor indirectly responsible for the accident and he was wrongly held responsible for the same. It is also the case of the applicant that the disciplinary authority ~~did~~ not apply its mind while imposing the penalty and had not even looked at the report of the inquiry officer. The other grounds taken are that he was not given reasonable opportunity during the inquiry proceedings which were conducted in violation of the principles of natural justice; that he was not given opportunity to cross-examine the witnesses and not shown the documents relied upon and also that the penalty imposed is disproportionate to the gravity of the mis-conduct. The appellate order has been challenged on the ground that it is a non-speaking order without indicating any reasons for the rejection of the appeal. ~~100~~

3. The respondents have submitted a written reply stating that the reports of the preliminary inquiry had listed the applicant at the top of the list of 4 persons responsible for the accident. It is their contention that the applicant being the Permanent Way Inspector had acted negligently and failed in his duty ~~of~~ for the proper maintenance of the Railway Track and ensuring its safety. It has been averred that the applicant <sup>was</sup> afforded every opportunity to defend himself in the inquiry and the report of the inquiry is fully supported by evidence recorded in the course of the inquiry. It is stated that the

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disciplinary authority considered all the points raised by the applicant and thereafter imposed the penalty.

4. The applicant has filed a rejoinder affidavit mainly reiterating the contentions made in the original application.

5. We have heard the learned counsel for the parties and have gone through the pleadings of the case carefully.

6. As regards the pleadings of the applicant relating to violation of natural justice during the inquiry proceedings, we have carefully gone through the record and could not find any facts which would substantiate such a plea. In the absence of supporting facts specifically averred, we cannot accept the contention of the applicant that he was denied adequate opportunity to defend himself. So far as the findings of the inquiry officer are concerned, we find that these are neither perverse nor based on no evidence. It is the settled position of law that the courts/tribunals do not sit in appeal in such matters and they can interfere only if it is found that the findings are either perverse on the face <sup>of</sup> ~~and~~ the evidence on record or based on no evidence.

7. Coming to the plea of non-application

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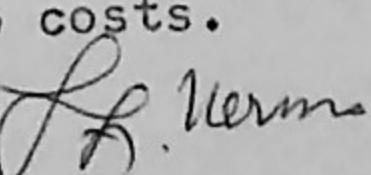
of mind on the part of the disciplinary authority, we, however, found that the impugned order dated 11.1.1985 passed by the disciplinary authority clearly holds the applicant guilty of both the charges levelled against him viz violating the provisions contained in para 204-A and 1406-A of Way Works Manual and General Rule 15.02, whereas, the inquiry officer has clearly held that the charge of violation of para 1406-A by the applicant is not established and he is absolved of the responsibility under this provision. It is, therefore, clear that the applicant has been punished for both the charges levelled against him although, the inquiry officer ~~did~~ not find the charge of violation of para 1406-A of Way Works Manual ~~is not~~ established. The disciplinary authority, nodoubt, had every right to disagree with the findings of the inquiry officer but then there <sup>is a</sup> ~~is~~ duty cast on him to indicate that he disagrees with the findings of the inquiry officer and to record reasons therefor. The impugned order of the disciplinary authority neither indicates that he disagrees with the inquiry officer's finding nor indicates the reasons that he came to a conclusion different from the conclusions arrived at by the inquiry officer. The order of the disciplinary authority, cannot, therefore, be sustained in law and has to be quashed.

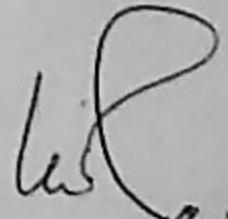
8. Coming to the appellate order, we find that the same is totally ~~maconic~~. The order

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indicates that the appeal made by the applicant against the punishment of withholding of increments for three years is rejected. There is not even a bare recital of the fact that the appellate authority has considered the points raised by the applicant in his appeal and the various other factors which are required to be considered by the appellate authority in terms of Rule - 22 ( 2 ) of the Railway Servant( D&A ) Rules, 1968. In view of the decision of the Supreme Court in the case of Ram Chander Vs. Union of India and others, AIR 1986 Supreme Court, 1173 the appellate order is also bad in law.

9. In view of the foregoing, both the impugned orders dated 6.1.1988 and 11.1.1985 are set aside with all consequential benefits of increments withheld and arrears of pay which should be paid to him within a period of 3 months from the date of communication of this order. The respondents, however, shall be at liberty to proceed afresh against the applicant from the stage of submission of inquiry report and pass appropriate orders in accordance with law. There will be no order as to costs.

  
Member (J)

  
Member (A)

(n.u.)