

THE LEGISLATIVE ASSEMBLY OF JHARKHAND

LEGISLATIVE BULLETIN, ALL INDIA

C.A. No. : 837 of 1990

T.R. No. :

DATE OF DESTITUTION : 27/96

Anil Kumar Pandey

PERIOD : .....

NAME OF THE MEMBER

RESIDENTIAL ADDRESS.

VENUE :-

Union of Architects - Architects.

NAME OF THE MEMBER

RESIDENTIAL ADDRESS.

QUESTION

The Hon'ble Mr. Justice B.C. Saksena, I.C.

The Hon'ble Mr. S. Das (Cmpt), Member(A)

1. whether it is right of loc 1 per. to may b. allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. whether their Loksabha will see the fair copy of the Judgement?
4. whether to be circulated to all other B.nch?

B.C.S.

SIGNATURE

B.C.S./

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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE ..... DAY OF ..... 1996

Original Application No. 837 of 1990

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S. DAS GUPTA, MEMBER(A)

Anil Kumar Pandey S/o Late Shri N.K. Pandey  
Conductor Northern Railway, Kanpur Central  
R/o L.I.G 148, Hemant Bihar, Barr-2, Kanpur

.... Applicant

Versus

Union of India through Ministry of  
Railway, Divisional Railway Manager  
Northern Railway, Allahabad Division  
Allahabad.

.... Respondents

OR D E R (Reserved)

JUSTICE B.C. SAKSENA, V.C.

Through this OA the applicant ~~anil kumar pandey~~ who was working as Conductor, in Northern Railway Allahabad seeks quashing of the order of punishment of withholding of increments for one year with cumulative effect w.e.f. 16.4.90. Copy of the impugned order is Annexure 12. He has also challenged the validity of circular issued by the Divisional Railway Manager Northern Railway Allahabad and Senior DCS Northern Railway Allahabad, copies of which are Annexures 3 and 5A respectively, so far as they provide that the conductors/CAs and T.T.Es ~~and~~ shall be held responsible for the cause of Alarm chain pulling. The said circular was also provided that it will be the responsibility to the conductor to give the reasons for the alarm chain pulling.

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2. The respondents have filed a written statement and the applicant has filed a rejoinder affidavit. As far as the order of punishment of withholding of increment for one year is concerned the respondents have stated that a charge sheet was issued to the applicant and he failed to give any satisfactory explanation for his fault in non indicating the reasons which lead to the alarm chain pulling on 20.11.89 in between Kanpur and Mogal Sarai stations in 2522 DN train.

The order of punishment had been passed according to the his explanation was ~~not~~ found to be unsatisfactory. The appeal against the order was also rejected. It has been pleaded that since it is a primary duty of the Railway Administration to ensure that the trains run on time the circular letters have been issued placing responsibility on the conductor who has been made the captain of the team and had been saddled with the responsibility of indicating the reasons for alarm chain pulling during his working hours. It has also been indicated by the respondents that the said circulars have been issued in view of the revised instructions of the Railway Board.

3. The applicant challenged the said circular on the ground that they are violative of the provisions contained in ~~judgement~~ Director Railway Board(Traffic) order dated 2.2.81 which were addressed to the General Managers All India Railways and which provided that the conductors and T.T.Es to be were not held responsible for alarm chain pulling/theft etc in sleeper coaches. As noted hereinabove, the said circulars have been issued on the basis of the revised instructions of the Railway Board. The respondents should have specified the number and date of the revised instructions of the Railway Board. However, since they have specifically pleaded *for*

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that the circulars have been issued on the basis of the revised instructions of the Railway Board. They are policy decisions and they cannot be held to be illegal since no statutory provisions have been shown to have been violated. A perusal of Annexure 2 shows that the captaincy scheme was devised after discussion at a meeting with the captains (conductor and TTEs of Kanpur and Tundla on various dates in July 1989. The Senior DCS was competent to issue the administrative directions and the applicant cannot be permitted to challenge the same after he was found to have been remissed in the discharge of the responsibility placed on him as a conductor. In view of the pleadings it is difficult to hold that the order of punishment is in any way arbitrary or capricious. The reasons for the same have been given out in the counter affidavit which appear to be satisfactory to us.

4. In view of the above, there is no merit in the O.A. No case for grant of the relief prayed for is made out. The OA is accordingly dismissed. Parties to bear their own costs.

IR  
MEMBER(A)

*B.S. Akse*  
VICE CHAIRMAN

Dated: 27/10/1996

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