

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Allahabad : Dated this 13th day of July, 2001.

Original Application No. 1895 of 1993.

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C

Hon'ble Maj Gen KK Srivastava, A.M.

Bijendra Son of ShriTunde,
Locoshed, Central Railway, Jhansi,
Resident of Pulia No.9, Thela Tal,
Jhansi.

(Sri M. P. Gupta/Sri SK Mishra, Advocates)

..... Applicant

Versus

1. The Union of India through the
General Manager, Central Railway,
Bombay VT.

2. The Divisional Railway Manager,
Central Railway, Jhansi.

(Sri AV Srivastava, Advocate)

..... Respondents

O R D E R (O_r_a_l)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this OA under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 16-8-1993 passed by the disciplinary authority reducing him in rank and the order dated 12-11-1993 by which the appeal of the applicant was dismissed.

2. The facts in short giving rise to this OA are that the applicant was serving as Assistant Driver on 06-2-1993 in Railway Engine No.17842. He was served a memo of charge containing allegation that while performing duties on the



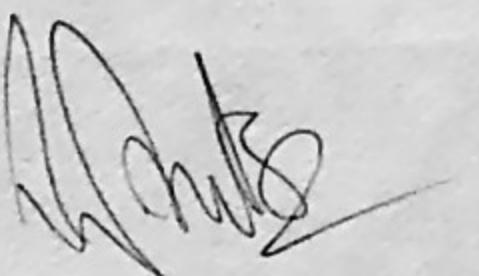
aforesaid Railway Engine with the Driver Mani Ram, he failed to repeat on aspect of up loop line starter signal to his driver at Talbahat Station which contributed to enter the engine in siding and further resulted in derailment of the said light engine no. 17842 WDM/2. This violated the GSSR Book.

3. The applicant submitted his reply to this charge. Thereafter he ~~was not present~~ did not participate in the enquiry and Inquiry Officer proceeded ex parte against him. The disciplinary authority agreed with the enquiry report and passed the order of punishment mentioned above. The copy of the enquiry report was served on the applicant. The applicant submitted his reply on 20-7-1993. The disciplinary authority passed the order of punishment dated 15-8-1993 reducing the applicant from Assistant Driver to the post of Yard Khalasi for a period of five years. The order also provided that on expiry of the period of five years the applicant's future increments and seniority will not be affected. In appeal this order has been maintained.

4. Learned counsel for the applicant has submitted that the three Security Officers who were travelling in the Engine ~~were not~~ ^{had} ~~in~~ witness ^{to the incident} but they were not examined. The appellate authority has considered this question and has concluded that it was not necessary to call them for examination during the enquiry. We have considered this aspect of the matter. The joint note mentioned in the charge sheet and documents to be relied on during the enquiry in the memo of charge has been filed as Annexure-4. Para I of this document reads as under :-

"As per statements recorded and on enquiry reveals that UP/DSL L/Eng No. 17842 WDM/2 JHS arrived TBT in UP/Loop line at 22/22 HRS on 6-2-93 for precedence to 6688 up and detraining officers who were travelling on loco Ex BAB. Driver after stopping in front of Stn building moved ahead in the mean time the Asst. driver Shri Bijendra T/No. 581 JHS told the driver to keep on moving as UP/Loop STR is 'OFF'. But actually the M/Line STR & A/STR were OFF for 6688 UP which is due to pass and UP/Loop STR was 'ON'!"

5. Thus, it is clear that the enquiry was conducted by Senior Supervisor and the officers who travelled from Talbahat to Babina were different and their examination was not necessary. The conclusion of the appellate authority is thus justified. It does not affect the merit of the case. Misconduct against the applicant has been found proved, the punishment awarded is justified in the facts and circumstances. The DA has no merit and is accordingly dismissed. There shall be no order as to costs.



Member (A) Vice Chairman

Dube/