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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.1341/1995

THURSDAY, THIS THE 12TH DAY OF DECEMBER, 2002

HON'BLE MR. GOVINDAN S. TAMPI ... MEMBER (A)

HON'BLE MR. A.K. BHATNAGAR ... MEMBER (J)

Shri Chandra Kishore Mishra,
S/o Late Baij Nath Mishra,
R/o 231/C New Loco Colony,
Northern Railway,
Varanasi.

Applicant

(By Advocate Shri G.D. Mukherjee)

Versus

1. Union of India, through
Chairman,
Railway Board,
Rail Bhawan, New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Lucknow.
3. Divisional Engineer,
Northern Railway,
Varanasi.
4. Chief Railway Inspector,
Northern Railway,
Varanasi.
5. Chief Permanent Way Inspector,
Northern Railway,
Varanasi.

... Respondents

(By Advocate Shri A. Sthalekar)

ORDER

Hon'ble Mr. Govindan S. Tampi, Member (A) :

Chandra Kishore Mishra, the applicant is aggrieved at the order passed by the respondents on 11.11.1992, reducing his pay from Rs.1,150/- to Rs.950/-.

2. Heard s/shri Sathyajit Mukherjee, learned proxy counsel for the applicant and Shri Amit Sthalekar for the respondents respectively.

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3. The applicant, who was appointed on 21.1.1961 as a Gangman under the Chief Permanent Way Inspector, Northern Railway, Varanasi, became a Keyman and thereafter a Mate. On 21.4.1992, when he was working as the Mate, he was placed under suspension alleging the derailment of two coaches on account of the negligence of the applicant on 25.3.1992. On 8.7.1993, he ascertained from the Officer-in-charge, Coaching Depot, Northern Railway, Varanasi, and confirmed that no derailment of coaches had taken place on the said date. He brought this to the notice of the respondents, but, still the respondents passed the order reducing his pay from Rs.1,150/- to lower time scale of Rs.950/- 1500/-. Hence, this O.A.

4. Grounds raised in this O.A. are that:-

- a) the suspension order has been issued without any reason;
- b) the reduction in the pay scale came as a surprise;
- c) there was no derailment at all at Varanasi on 25.3.1992; and
- d) the applicant has been falsely implicated.

During the oral submissions, the above were forcefully reiterated by Shri Sathyajit Mukherjee. He also stated that during the pendency of the punishment, he had retired which had led to his pension being lowered and adversely affected. As there was no derailment of the coaches on the said date, the charges are baseless and malafide and only made to deny him his due. Shri Mukherjee also stated that reduction in pay was a major penalty and the same should not have been done without following the inquiry proceedings under the Railway Servants (Discipline and Appeal) Rules.

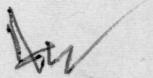
5. Rebutting the pleas raised on behalf of the applicant, the learned counsel for the respondents Shri A. Sthalekar points out that on the said day, i.e., 25.3.1992, on account of the negligence of the applicant, derailment of an Engine had taken place which was only on account of the applicant's ^{negligence}. He could not therefore, have any grievance on the punishment and that too a reduction of pay for just two years. The same was not a major penalty, but, only a minor penalty in terms of the Railway Servants (Discipline and Appeal) Rules and therefore, the applicant's plea was incorrect. Even otherwise, once the punishment period was over, the applicant's dues ^{were} ~~were~~ worked out properly and therefore, his apprehension that his pensionary benefits could be adversely affected has no basis, according to Shri A. Sthalekar.

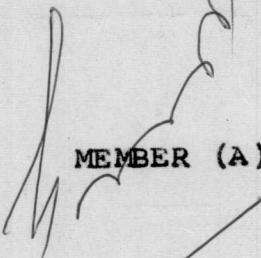
6. We have carefully considered the matter and perused the documents brought on record.

7. It is clear that on the said date, i.e., 25.3.1992, derailment of an Engine attached to coaches had taken place at Varanasi and the responsibility for the above had been correctly attached to the applicant who was a Mate. The proceedings have been correctly gone through and the penalty, which is a minor penalty has been imposed on the applicant. In the circumstances of the case, where derailment of an Engine had taken place, which would have had serious repercussions, the penal action taken by the respondents could not be faulted. The punishment imposed on him by reducing the pay to the lower scale for the period of two years, is not such a harsh punishment which would shock our judicial conscience. The fact that while undergoing the punishment

period, the applicant had retired on superannuation also would not change the position as at the end of 1994, his pension would be ~~reverted~~ ^{reworks} keeping in mind the fact that the punishment period is over.

thus
8. we are/convinced that the O.A. has no merits and has to fail. It is accordingly dismissed. However, the respondents will ensure that this does not come in the way of granting him the proper pension once the punishment period is over. No costs.


MEMBER (J)


MEMBER (A)

psp.