

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.
...

Original Application No. 390 of 1999
this the 1st day of June'2004.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Vishwambhar Nath, S/o Sri Tilakdhari, R/o Akhri Sahpur,
post Latadh, District Allahabad, at present posted as
Gangman under Section Engineer (Track), Meja Road,
Allahabad.

Applicant.

By Advocate : Sri S. Dwivedi.

Versus.

1. Union of India through the General Manager, N.R.,
Baroda House, New Delhi.
2. The Additional Divisional Railway Manager, Northern
Railway, Allahabad.
3. The Divisional Superintending Engineer (I),
Northern Railway, Allahabad.
4. The Assistant Engineer, Northern Railway, Mirzapur.

Respondents.

By Advocate : Sri A.K. Gaur.

ORDER

By this O.A., applicant has sought the following
relief(s);

"(i) That the order dated 10.10.1997 passed by
Assistant Engineer, Northern Railway, Mirzapur
(Annexure A-1), order dated 13.2.1998 passed by
Division Superintending Engineer (I), N.Rly.
Allahabad (Annexure A-2) and order dated 9.7.1998
passed by Additional Divisional Rail Manager, Northern
Railway, Allahabad (Annexure A-3) may be declared
illegal and the same may be quashed and further it is
prayed that the applicant may be allowed all the
consequential benefits.

(ii) -----.

(iii) -----."



2. It is submitted by the applicant that while he was posted as Gateman under Section Engineer (Track), Meja Road, Allahabad, ^{he} was served with a chargesheet dated 16.6.1997 by the Assistant Engineer, Northern Railway, Mirzapur to the following effect :

उपरोक्त शास्त्रियाँ

*दिनांक 11-6-97 को 311 अप ट्रेन गेट नं० 23-सी के करीब पहुँचने वाली थी उस समय आप गेट खोलकर ट्राफिक को पास कर रहे थे ।

नियमानुसार बिना प्राइवेट नम्बर लिये आपको गेट नहीं खोलना चाहिए था इस प्रकार यह एक बड़ी दुर्घटना हो सकती थी ।

§1§ सुरक्षा सम्बन्धी नियमों का पालन न करना ।

§2§ ड्यूटी पर लापरवाही करना ।

इस प्रकार आपने रेल सेवक नियम 1968 के अनु० एवं अपील नियम 3 के उपनियम 3द।द 3§11§ तथा 3§111§ का जमानबूझकर उल्लंघन किया ।

होअस्पष्ट
सहायक अभियन्ता
उ०रे०, मिर्जापुर

He denied all the charges levelled against him vide reply dated 15.7.1997, but the Assistant Engineer, Northern Railway, Mirzapur without taking into consideration his submissions and without giving any reason, passed the order dated 10.10.1997 awarding the punishment of reduction of pay in the pay-scale of Rs.900-1150/- to the stage of Rs.800/- for a period of one year without any cumulative effect (page 10).

3. Being aggrieved, he filed an appeal before the Divisional Superintending Engineer (I), Northern Railway, Allahabad on 28.11.1997, but even that was dismissed vide order dated 13.2.1998 contrary to the provisions contained in rule 22 of the Railway Servants (Discipline & Appeal) Rules, 1968. Being aggrieved, he filed Revision petition before the Divisional Railway Manager, but the same was also rejected by the Additional Divisional Railway Manager,



Northern Railway, Allahabad vide order dated 9.7.98 by a non-speaking order.

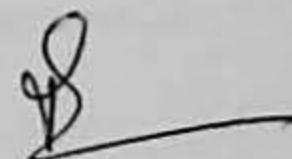
4. The applicant has challenged all these orders on the ground that they are non-speaking orders and relied-upon documents were not supplied to him. The orders have been passed in an arbitrary, un-reasonable, unfair and malafide manner, which is not sustainable in law. Since all these orders are non-speaking, the same be quashed and set-aside.

5. The respondents, on the other hand, have opposed this O.A. on the ground that since ~~the~~ applicant did not perform his duty under the instructions of Cabinman for opening and closing of the gate, which could have caused a major accident, therefore, he has rightly been punished for his lapses in not following the safety rules and on negligence of duty as on 11.6.1997 while train no. 3111 Up was nearing to Gate no. 23, the applicant was trying to pass the traffic after opening the gate without obtaining private number. Since this case pertains to security lapses, therefore, it calls for no interference. They have, thus, submitted that there is no merit in the O.A., the same may be dismissed.

6. perusal of the chargesheet shows that he was given chargesheet for minor penalty on the allegations that he was permitting the traffic to pass by opening the gate when train no. 3111 Up was approaching gate no. 23 on 11.6.1997. According to rules, without taking private number, he should not ^{have} opened the gate as it could have ^{caused} ~~been~~ a major accident. Reply to the said chargesheet was not found to be satisfactory. Respondents have stated that there are safety rules to the effect that every time at the time of opening and closing of the gate, private number is to be exchanged, which has been violated by the applicant. They have further explained that incase the applicant had exchanged the private number

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there should have been entry to the same effect in the log book, but nothing was shown in the log book. Therefore, the disciplinary, appellate and revisionary authorities after taking into consideration the safety lapses has rightly imposed the punishment on the applicant. If the applicant wanted some documents, he should have ^{given} specific application to that effect, but from the averments made in the O.A. no such thing was placed on record. As far as the applicant's contention that the orders are non-speaking, I would only like to say that speaking order does not mean that it should un-necessarily run into number of pages, so long the orders show that the authorities have applied their mind and punishment has been imposed on ~~the~~ valid reasons, it does not call for any interference by the Court. In the instant case, it is seen that the respondents have filed Counter affidavit, but the applicant did not ^{even} bother to file any Rejoinder affidavit to controvert the allegations made by the respondents. Therefore, in law the averments made by the respondents are deemed to have been accepted by the applicant. In any case, since it is a case of serious lapses and negligence of duty, which needs to be dealt with effectively and only punishment given to the applicant is reduction of pay for one year without any cumulative effect, I do not find any good ground to interfere in this case. The O.A. is accordingly dismissed. No costs.



MEMBER (J)

GIRISH/-