

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 676 of 2006

Allahabad this the 27 day of February, 2012

Hon'ble Mr. Justice S.C. Sharma, Sr. J.M./HOD
Hon'ble Ms. Jayati Chandra, Member (A)

Diweshwar Prasad Chaudhary S/o Late Triveni Ram Chaudhary, aged about 69 years (Retired Chief Permanent Way Inspector, N. Railway, Prayag). Resident of 210/112-A, B.H.S. Colony, Allahpur, Allahabad.

Applicant

By Advocate: Mr. S.S. Sharma

VS.

1. Union of India through - The General Manager, Northern Railway, Headquarters Office, Baroda House, NEW DELHI
2. The Divisional Railway Manager, Northern Railway, DRM Office, LUCKNOW.
3. The Additional Divisional Railway Manager-II, Northern Railway, D.R.M. Office, LUCKNOW (The Appellate Authority).
4. The Divisional Superintending Engineer (Coordination)/ Northern Railway, DRM Office, LUCKNOW.
5. The Assistant Divisional Engineer, Northern Railway, Pra-yag, ALLAHABAD.

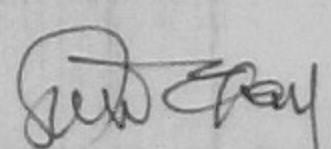
Respondents

By Advocate: Mr. Prashant Mathur

ORDER

By Hon'ble Mr. Justice S.C. Sharma, Sr. J.M./HOD

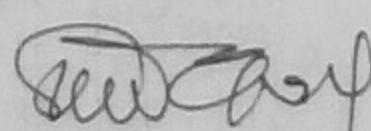
Under challenge in the O.A. is the charge sheet for major penalty dated 28.12.1994, penalty order dated 16.06.1995 and appellate order dated 22.09.2005. Further prayer has also been made for giving direction to the respondents to treat the applicant on duty w.e.f. 02.11.1995 to 31.01.1996, the date of compulsory



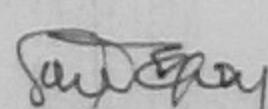
retirement to the date of actual retirement of the applicant on 31.01.1996 with fixation of pay in the grade of ' 7450-11500/- as Chief Permanent Way Inspector and pay arrears of salary. Further direction has also been prayed for payment of retiral and pensionary benefits to the applicant, and gratuity, leave encashment, pension and commutation of pension on the basis of revised fixation along with all consequential benefits and along with interest @ 12% per annum.

2. The pleadings of the parties may be summarized as follows:

It has been alleged by the applicant that while he was working as Permanent Way Inspector (later on called as PWI) Grade-I in the pay scale of ' 2000-3200/- (RPS) under the Assistant Engineer, Northern Railway, Prayag and under the administrative control of the Divisional Railway Manager, Northern Railway, Lucknow-the respondent No. 5 and 2 respectively served a memo of charge for major penalty on Standard Form No. 5 by Shri Dharam Singh, the D.S.E. (C), Lucknow dated 28.12.994. According to the charges, applicant was found guilty of negligence and carelessness in working as he failed to get the badly chipped off tongue rail replaced and violated para-136 of the Indian Railway P. Way Manual and para-5.02 of G & S.R. Regarding the charges, reliance was placed on two documents i.e. (i) Joint Accident Enquiry Report of the Enquiry Committee JA Grade Officers and (ii) Joint Note of the Senior Subordinates. Three witnesses were mentioned in the charge sheet namely S/Sri R.P. Singh, TI/PRG, D.N. Singh, Guard/PBH, K.C. Tewari, Driver/PBH.



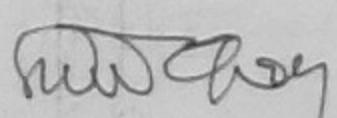
This memorandum of charges was issued to the applicant in connection with derailment of UP DMT (Department Material Train) Special Train which was passing through Prayag Railway Station via line No. 2 at point No. 18 W of West End, after Train Engine and 19 Wagons had passed, 11th to 15th wagons were derailed. Prayag station is situated between Allahabad and Phaphamau Station on Phaphamau-Allahabad Section of Lucknow Division in Northern Railway. The accident ~~was~~ took place in Prayag Railway Station Yard in the night of 25/26.09.1994 at 22.22 hours. A fact finding preliminary enquiry was conducted on 26.09.1994 by Senior Subordinates of Civil Engineering Permanent Way Department, Mechanical Department (Carriage and Wagon), Signal and Telecom Department, Traffic Department and Operating Department of Lucknow Division, and a report was submitted, and in the joint note of the Committee, P.W.I., Prayag and CFO/HTXR, Open Line, Lucknow were held responsible. The applicant - PWI, Prayag recorded disagreement note with the objection that measurement of wagons was not recorded on standard proforma, is the reason for derailment. The wagons were defective of the DMT whereas in the joint note of the Traffic Inspector, Carriage and Wagon Department was held responsible for improper maintenance of DMT (Department Material Train) derailed on 25/26.09.1994 at Prayag station. Thereafter, a Fact Finding Accident Enquiry was conducted on 29.09.1994 consisting of four members, and the report was submitted to the DRM, N. Railway, Lucknow and detailed reasons were given for the accident, and the responsibility was fixed. The applicant was held guilty of negligence and carelessness working as he failed to get



the chipped off tongue rail replaced. No documents, relied by the respondents, was served upon the applicant, and the Disciplinary Authority without supplying the relied documents to the applicant, and without giving proper opportunity for making available the originals of the relied upon documents in order to enable the applicant to submit his written statement of defence against the charges leveled against him, and without submitting the written statement of defence by the applicant, the Disciplinary Authority appointed Sri C.M. Patra, Assistant Engineer, N. Railway, Prayag as Inquiry Officer, and the applicant attended the inquiry on 29.03.1995 and he denied the charges leveled against him. The Presenting Officer was not appointed by the Disciplinary Authority in this case, and the Inquiry Officer acted like a Presenting Officer also. The Inquiry Officer in the capacity of Presenting Officer also recorded that statement of prosecution witness namely S/Shri R.P. Singh, D.N. Singh and K.C. Tiwari so recorded in fact finding enquiry of J.A. Grade Officer would be taken as the statements in the D & AR enquiry also, and the evidence from administrative side was closed, and the applicant was directed to submit his Written Statement of Defence by the next date. On the next date the Defence and Cross-Examination of charged official-applicant was concluded. It was specifically stated that the tongue rail was not the cause of derailment as so many trains ~~were~~ passed over it safely but the real cause of derailment was defects in wagons for which no wagon measurements were taken by the Senior Subordinate, Joint Committee, and the real cause of derailment could be finalised only after the wagon measurements. Moreover, there was no evidence, oral or documentary in support of the

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charges leveled against the applicant, and the inquiry report was based on the statements recorded in the fact finding inquiry and none of the witnesses appeared before the fact finding inquiry committee. The IO without conducting any inquiry and without giving any opportunity to the applicant to prove his case, concluded the inquiry on the basis of joint inquiry report, and the Disciplinary Authority vide order dated 16.06.1995 imposed penalty of reduction in lower post/grade from grade ₹ 2000-3200/- to grade ₹ 1600-2660/- for a period of one year with postponing future increments. It was incumbent upon the Disciplinary Authority that prior to taking a final decision, copy of enquiry report was not sent to the applicant, and the penalty order was passed in violation of principle of natural justice and in violation of Railway Board's Order and the order of Disciplinary Authority is non-speaking and cryptic. Moreover, Shri Dharam Singh, Divisional Superintending Engineer and the Disciplinary Authority was one and the same person, and he was also the member of the Fact Finding Accident Inquiry Committee and he also issued the charge sheet and passed the order of punishment. All the documents were not considered by the Disciplinary Authority prior to passing the order of punishment. The appeal was preferred by the applicant before the Appellate Authority, and the applicant highlighted the serious illegality, irregularity and violation of rules in conducting the inquiry by the I.O. The Appellate Authority i.e. Additional Divisional Railway Manager, N. Railway, Lucknow vide order dated 25.09.1995 issued show cause notice to the applicant that as to why the penalty of compulsory retirement should not be imposed upon the applicant, and the



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applicant submitted the representation dated 14.10.1995 against the show cause notice. It was alleged by him that the rules nowhere empowers him to act under this rule, and it will be unjust for him to impose the penalty of compulsory retirement upon the applicant. However, on 02.11.1995 in violation of the Constitution of India and also the principle of natural justice, an order was passed by the Appellate Authority of compulsory retirement. As the order was not speaking, O.A. No. 1271 of 1996 was filed against the Orders of the Appellate Authority and Disciplinary Authority dated 16.06.1995 and 02.11.1995 respectively. This Tribunal allowed the O.A. in part, and the Order of the Appellate Authority was quashed, and the Appellate Authority was directed to pass a fresh order on the appeal of applicant after considering the facts of the case. But the fact is that the Disciplinary Authority while passing the fresh order, on 22.09.2005 did not consider any of the submissions of the applicant, and the order of compulsory retirement was maintained. As the illegal order was passed by the Disciplinary Authority as well as the Appellate Authority hence the same are liable to be quashed.

3. The respondents contested the case, filed the Counter Reply and denied from the allegations made in the O.A. It has further been alleged that the applicant filed the O.A. in order to challenge the charge sheet, penalty order and the appellate order, and the order passed by the appellate authority in compliance of the Order passed by this Tribunal in O.A. No. 1271/1996. Earlier also applicant filed an O.A. before this Tribunal, and the O.A. was

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partly allowed vide order dated 30.01.2004, and in pursuance of direction of the Tribunal, the appellate authority considered the pleas of the applicant alleged in the Appeal, and a fresh order was passed. The allegations against the applicant were proved beyond doubt and the penalty of compulsory retirement was confirmed vide order dated 02.11.1995, and in these circumstances, the principle of *resjudicata* will be applicable and now the applicant cannot challenge the appellate order as well as the order passed by the disciplinary authority. The order dated 22.09.2005 is self explanatory on the subject as the applicant who had been served with the major penalty charge sheet while working as C.P.W.I., Prayag Station was found guilty of negligence and carelessness in discharging his duties as he had failed to change the chipped off tongue timely, which caused derailment at Prayag Station. The charges leveled against the applicant were of serious nature and proved, as such, the applicant was subject to the penalty commensurate to the charges framed against him. During the inquiry, full opportunity for his defence was given to the applicant, and the allegations made in the O.A. are nothing but an attempt to prejudice the mind of the Tribunal. Perusal of the inquiry report itself shows that ample opportunity was provided to the applicant of his defence, and after oral, documentary and ~~sufficient~~^{defence} evidence, inquiry was finalized on 29.03.1995. It is wrong to allege that the proceeding as conducted by the disciplinary authority was against the Rule 9 (ii) of Railway Servants (Discipline and Appeal) Rules or against the instructions of the Railway Board. The applicant was permitted to go through the original documents along with

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defence helper, and after going through the oral, documentary, and circumstantial evidence, the I.O. submitted his detailed report. All the documents and witnesses relied by the applicant had been examined by the I.O., and it is on the basis of materials available on record that the applicant was found guilty. The applicant was the Incharge of the Beat and was found responsible for the incidence of derailment. The competent authority imposed the penalty of reduction to lower post grade for a period of one year without postponing his increments. The competent appellate authority has taken all due care of the averments made by the applicant under referred paragraph before passing of the order dated 22.09.2005, and the Tribunal while passing the Order in the earlier O.A. had made no specific comments regarding facts of the case, and simply remand the matter to the Appellate Authority for further consideration. An impartial inquiry was conducted against the applicant as the Appellate Authority was of the opinion that the punishment awarded by the Disciplinary Authority is not in commensurate to the gravity of charges hence, a show cause notice was served for imposing penalty of compulsory retirement and a representation was submitted and after considering the representation of the applicant, an order was passed by the Appellate Authority on 02.11.1995 and thereafter a fresh order dated 22.09.2005 was also passed in pursuance of direction of the Tribunal. There had been some delay in passing the fresh order by the appellate authority due to non availability of certain documents. It is claimed that the O.A. lacks merit hence, is liable to be dismissed.

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Representation of
Appellate Authority

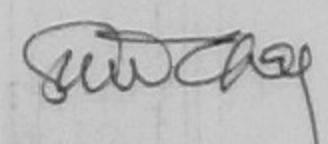
Dated 12.09.2005

4. We have heard Sri S.S. Sharma, Advocate for the applicant and Sri Prashant Mathur, Advocate for the respondents, and perused the entire facts of the case.

5. From the averments made in the O.A. as well as in the Counter Reply, it is undisputed fact that at the relevant period, applicant was posted as P.W.I. Grade-I at Phaphamau-Allahabad Section of the Lucknow division. An accident took place at Prayag Railway Station in the yard on 25/26-09-1994 at 22.22 hours. A DMT was passing from the Prayag Station and certain wagons were derailed. Preliminary enquiry regarding determination of facts was conducted on 26.09.1994 by the senior subordinates of the Civil Engineering, PWI department, Mechanical department, Carriage and Wagon, Signal and Telecom department, Traffic and Operating department of the Lucknow division. In the joint inquiry of derailment by senior subordinates, they held the Carriage and Wagon department responsible for derailment of DMT, which derailed on 25/26.09.1994. Thereafter, a fact finding inquiry was also conducted by the Committee consisting of the persons namely Sri Bhoj Raj, President/Senior Divisional Signal & Telecom Engineer, Sri Dharam Singh, Member/Divisional Superintending Engineer/Co-ord, Lucknow Sri G.N. Asthana, Member/Senior Divisional Mechanical Engineer, Lucknow and Sri Devesh Mishra, Member/Senior Divisional Safety Officer. In the said Accident Fact Finding Enquiry Committee, the applicant was held guilty of negligence and carelessness working as he failed to get the chipped off tongue rail replaced.

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6. Learned counsel for the applicant argued that Sri Dharam Singh, Divisional Superintending Engineer/Co-ord, Lucknow was a member of the Accident Fact Finding Enquiry Committee, and in this inquiry the applicant was held responsible for negligence and carelessness for the accident but even then it was Sri Dharam Singh who acted as a Disciplinary Authority and issued a charge sheet to the applicant on 28.12.1994 hence he cannot serve the charge sheet and again act as a Disciplinary Authority because ultimately the punishment was also awarded by him, and in this manner gross illegality has been committed by the respondents. The applicant was not at all responsible for derailment by not replacing the badly chipped off tongue rail because several trains used to pass through that point, and this fact itself shows that the officials of Carriage and Wagon department were responsible for derailment. Even after replacement of tongue rail, some DMT derailed on the same point whereas numerous other trains passed over that and the defect was in the wagons and no action was initiated against the officials of Carriage and Wagon department. Earlier, an inquiry was conducted by the senior subordinates on 26/27.09.1994 and in that joint inquiry by the senior subordinates, Carriage and Wagon department was held responsible for improper maintenance of the DMT. It is alleged by the applicant that instead of placing reliance on the report of senior subordinates, reliance was placed on the report of Accident Fact Finding Enquiry Committee in which applicant was held responsible for negligence and carelessness. In this connection, it has been argued by learned counsel for the respondents that the Tribunal cannot sit over the decision of the Inquiry Committee,



Disciplinary Authority and the Appellate Authority. In this connection, reliance has been placed on the Judgment of the Hon'ble Apex Court reported in (1989) 10 ATC page 30 Union of India Vs. Parma Nanda. The Hon'ble Apex Court held as under: -

"The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

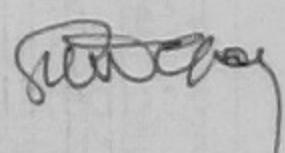
Hence, in view of the Judgment of Hon'ble Supreme Court, if a finding has been recorded by the Inquiry Committee or Fact Finding Inquiry Committee then this Tribunal cannot sit over that finding as an Appellate Authority, and the Tribunal has got no power to substitute its own discretion or finding over that authority. Under these circumstances, we are of the opinion that the Tribunal has got limited jurisdiction to adjudicate the matter of finding of the fact, and it can only interfere in the finding if it is suffering from perversity.

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7. Moreover, it is also not very relevant that Sri Dharam Singh, DSE (C), Lucknow was the Member of Fact Finding Inquiry and in that inquiry report, submission was to the effect that it was the applicant who was negligent and carelessness due to which derailment took place. The applicant failed to badly chip off tongue replaced. Sri Dharam Singh was one of the Members of the Committee, who submitted the report but at the same time it is a fact that Sri Dharam Singh, DSE (C) was the Disciplinary Authority and it is the sole prerogative of the Disciplinary Authority to serve the charge sheet on an employee under his subordination regarding the misconduct. Learned counsel for the applicant in this connection cited a Judgment reported in 1989 (11) ATC 186 *Chaitanya Das Ghosh Vs. Union of India and others*. Although it has been held in this Judgment that the Disciplinary Authority was a Member of the Fact Finding Inquiry Committee and the punishment was also awarded by him. But in the present case it will be just and appropriate to state that the punishment of compulsory retirement was not awarded by the Disciplinary Authority but the Disciplinary Authority awarded lesser punishment of reduction to lower grade of P.W.I. i.e. Rs. 1600-2660/- for a period of one year from PWI Grade-I Rs.2000-3200/- with postponing future increments. But the Appellate Authority after considering the facts of the case issued a show cause notice to the applicant that as to why the punishment may not be enhanced to that of compulsory retirement of the applicant and accordingly the punishment was enhanced by the Appellate Authority to that of compulsory retirement. It is also a fact that being aggrieved from the Order passed by the Appellate Authority

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as well as by the Disciplinary Authority, the applicant filed an O.A. No. 1271 of 1996 D.P. Chaudhary Vs. UOI & Ors. before the CAT Allahabad Bench and in that O.A., the order of the Disciplinary Authority dated 16.06.1995 and of the Appellate Authority dated 02.11.1995 were challenged. The O.A. was partly allowed and the order of the Appellate Authority dated 02.11.1995 was set aside and the matter was remanded to the Appellate Authority with a direction to decide the Appeal afresh in the light of observation made in the body of the Order. Learned counsel for the respondents in this connection argued that the order of punishment passed by the Disciplinary Authority stands finalized and it cannot be re agitated. Only the order of the Appellate Authority was set aside and quashed with a direction to decide the appeal afresh after considering all the facts alleged by the applicant in the Appeal. Learned counsel argued that now the applicant cannot re agitate the matter regarding the competency or in competency of the Disciplinary Authority in serving the charge sheet, and the Order passed by the Tribunal in the previous O.A. shall operate as resjudicata. It is an admitted fact that the applicant being aggrieved from the Order of the Appellate Authority as well as the order of the Disciplinary Authority, O.A. was filed and it is also an admitted fact that the O.A. was partly allowed regarding the order passed by the Appellate Authority. Under these circumstances, it will be presumed that regarding all other facts, matter stand finalized and now it cannot be re agitated. In this connection, learned counsel for the applicant argued that the principle of merger shall be applicable in these circumstances. But, we could not understand that on this ground

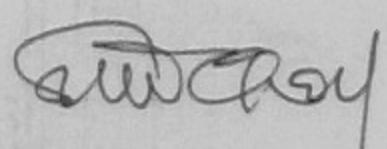


what the applicant wants to state. The O.A. was partly allowed regarding the appellate order and nothing has been ordered regarding the order of the Disciplinary Authority or the inquiry proceedings. Now, the same cannot be re agitated. We have to see that whether there are some irregularities or infirmities in the order passed by the Appellate Authority. The order passed by the Appellate Authority on dated 26.05.2005 and the order of compulsory retirement was maintained. We disagree with the argument of learned counsel for the applicant that when the order passed by the Appellate Authority was set aside then, the order passed by the Disciplinary Authority shall also stand set aside. This is a wrong interpretation of the facts of case. In view of Order of the Tribunal, only the appellate order shall stand set aside and it cannot be said that any comment has been made regarding the order of the Disciplinary Authority, and the order passed by the Disciplinary Authority shall stand quashed. Annexure A-17 is a copy of the Order passed by the Tribunal in the earlier O.A. No. 1271 of 1996 and from perusal of the Order passed by this Tribunal, it is a fact that the order passed by the Disciplinary Authority as well as the inquiry proceedings were also challenged. Hence, we disagree with the argument of learned counsel for the applicant.

8. It has also been argued by learned counsel for the applicant that the I.O. Sri G.M. Patra was appointed by the Disciplinary Authority Sri Dharam Singh. He is Assistant Engineer, Northern Railway, Prayag. It is alleged that several irregularities have been committed by the I.O. during the inquiry. Copy of the documents

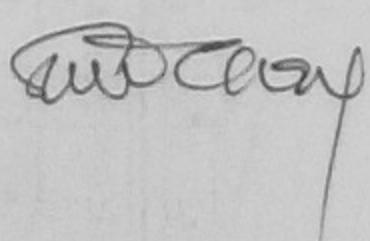
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relied by the department, has not been supplied to the applicant in order to defend him, and the same is essential as per Rule 9 (a) (i) of the Railway Servants (D&A) Rules, 1968. But from the facts of the case, it cannot be presumed that the copies of documents relied by the respondents, not supplied to the applicant during the inquiry. It is a fact that full opportunity was provided to the applicant to defend himself during the inquiry even assistance was provided to the applicant to defend himself. It has also been argued by learned counsel for the applicant that no Presenting Officer was appointed in the inquiry and the Inquiry Officer himself acted as a Presenting Officer. It has also been argued that this fact also vitiates the inquiry. Same person cannot be a Judge and the prosecutor. We have perused the inquiry report and from perusal of the inquiry report it is evident that mostly reliance has been placed on the documents and the report of joint committee as well as Accident Fact Finding Inquiry Committee regarding statement of witnesses. Learned counsel for the applicant also argued that the Presenting Officer/Inquiry Officer Sri G.M. Patra noted down that no witnesses are to be produced from the side of the railway administration in this case. The I.O. as Presenting Officer also recorded that statement of prosecution witness namely S/Sri R.P. Singh, D.N. Singh and K.C. Tiwari so recorded in Fact Finding Enquiry of J.A. Grade Officers would be taken as the statements of these persons in D & AR inquiry also. The applicant alleged that this is a wrong procedure. If the sufficient material was available in the file and the I.O. was of the opinion that no more evidence is produced by the railway administration and he closed the evidence hence it cannot be said



that the I.O. acted illegally. Without recording the evidence, applicant was directed to submit the written statement of the defence orally or in writing by the next date and 26.03.1995 was fixed and on that date the I.O. inquired the charged officer and his examination was closed on that date and applicant also submitted a statement of defence before the I.O. and thereafter the I.O. fixed 29.03.1995 for submission of the written arguments but there is no such proof of this fact that the I.O. fixed some date for submitting the Written Arguments as entire proceedings were concluded. The statement of applicant as well as the written statement of defence was filed by the applicant hence there was no necessity to fix a date for submitting the written arguments, and it cannot be said that some illegality has been committed by the I.O. in submitting the inquiry report prior to 29.03.1995. The allegation of applicant that he was kept in dark cannot be accepted as no illegality has been committed by the I.O.

9. It has also been argued by learned counsel for the applicant that the Disciplinary Authority prior to awarding the punishment against the applicant did not serve the copy of inquiry report but it has not been disputed that the inquiry report was not available with the applicant. The inquiry report was supplied by the I.O. himself and hence the Disciplinary Authority was not required to supply a fresh copy of the inquiry report. Moreover, only the order of compulsory retirement was awarded and proper procedure was followed by the respondents in awarding the punishment. The Appellate Authority after considering the gravity of the matter issued a show cause notice to the applicant that as

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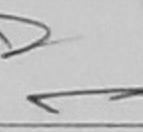
to why the punishment may not be enhanced to that of compulsory retirement and after considering the statement of applicant, the order of punishment of compulsory retirement was passed, and it cannot be said that any illegality has been committed by the Appellate Authority. Numerous Judgments have been cited by the learned counsel for the applicant, which are as follows: -

- (i) (2008) 12 SCC 230-Cantonment Executive Officer & another Vs. Vijay D Wani & Ors.
- (ii) 1989 (5) ATC 426 Jaffer Sheriff Vs. Union of India and others;
- (iii) (1997) SCC (L&S) 152 Narayan DattaTraya Ramteerthakhar;
- (iv) (2004) SCC (L&S) 863 Union of India and others Vs. Mohd. Ibrahim;
- (v) (2008) (3) (S&J) (SC) 257 U.C.O. and another Vs. Rajendra Lal Kapoor

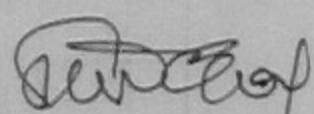
But in our opinion no benefit can be given to the applicant on the basis of above mentioned Judgments. Under these circumstances, it cannot be said that ~~any~~ illegality or irregularity has been committed by the Disciplinary Authority or the Inquiry Officer in conducting the inquiry. The punishment was awarded by the Disciplinary Authority of reduction of rank whereas in the appeal, the Appellate Authority has enhanced the punishment to the effect of compulsory retirement and accordingly the applicant was compulsorily retired. In pursuance of order of the Tribunal, the Appellate Authority passed a fresh order of compulsory retirement on 22.09.2005, a detailed and speaking order was passed by the Appellate Authority as per direction of the Tribunal

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and no infirmity has been pointed out in the order passed by the Appellate Authority.

10. It will be material to state that pleadings of the parties are too elaborate and it is argumentative. The applicant in the O.A. repeated the facts of the case and it could have been curtailed. We have to put unnecessary labour to go through the pleadings of parties. The respondents have also not restrained themselves in filing the short counter reply and they have repeated the facts of the case. In this connection, the Judgment of Hon'ble Apex Court reported in *AIR 1986 SC 1370 Life Insurance Corporation of India Vs. Escorts Ltd. And others* will be relevant. It has been held by the Hon'ble Supreme Court that "*In the name of justice, we paid due homage to the causes of the high and mighty by devoting precious time to them, reduced, as we were, at times to the position of helpless spectators.*" In view of the Judgment of Hon'ble Supreme Court, the pleadings must be brief. It is known proverb that the brevity thy name is  is wisdom. It is advised that the pleadings must be brief containing all the relevant facts in short. We expect that in future learned advocates restrain themselves in repeating the facts so that the Tribunal may be saved from unnecessarily bothering and putting labour.

11. For the reasons mentioned above, we are of the opinion that there appears no infirmity and illegality in the order passed by the Disciplinary Authority as well as by the Appellate Authority. There is a categorical finding of the Inquiry Officer that the accident took place due to negligence and carelessness of the

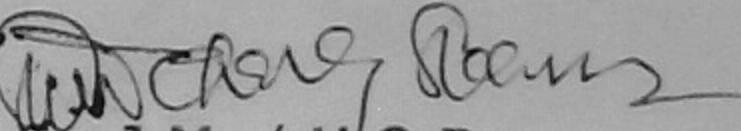


applicant. It was the duty of applicant to replace the badly
chipped off tongue ^{nail 2} but the same has not been changed and the
derailment took place. O.A. is devoid of merit hence liable to be
dismissed.

12. O.A. is dismissed. No order as to cost.

J. Chandra

Member - A


Sr. J.M. / H.O.D.

/M.M/