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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

O.A. No. 162 of 1986  
T.A. No.

DATE OF DECISION 28.10.'86

RAMZAN ALI SHAIKH Petitioner

SHRI B. I. MEHTA Advocate for the Petitioner(s)

Versus

SHRI G. K. LIMAYE (W. RLY.) Respondent

SHRI R. P. BHATT Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. P. H. TRIVEDI ... Vice Chairman

The Hon'ble Mr. P. M. JOSHI ... Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

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O.A. No. 162/86

Per: Hon'ble Shri P. H. Trivedi, Vice Chairman

JUDGMENT

The applicant, Ramzan Ali Shaikh, while driving a goods train committed an accident on 15.9.'83, while approaching Samakhiali station, entering against signals and colliding with another goods train, derailing some oil tank wagons causing some naptha to be spread, fire to be caused and burn injuries to the guard. The Inquiry Committee of senior officers found that there was sufficient brake power for the applicant to control the train, if his reflexes were working properly and were time-oriented. If he had taken steps to commence controlling the train well in time in relation to the topography of the track, the accident could have been avoided. After giving opportunity to the applicant, he was punished with reversion as Shed Shunter in the scale of Rs. 290-400 at Rs. 290/-, without future effect for 2 years, but C.O.P.S., W. Rly., enhanced the punishment in view of the gravity of the offence to permanent reversion with a further instruction that the applicant would not be allowed to work at locomotives outside the shed premises or work in any other safety categories. This order dated 23.1.'85 was confirmed by the General Manager who rejected the representation of the applicant against the enhancement of the punishment of C.O.P.S. Aggrieved by the enhancement of the punishment, the applicant has sought redressal of his grievance from the Tribunal. The stand of the applicant is that he had noticed that the brake power of the train was inadequate and had sent signals to

various stations reporting the same, but, he was informed that he was losing time and nothing was done to improve the brake power of the train and as a result thereof he could not stop the train or offer it for repairs before the accident took place. While he had reconciled himself to the punishment of reversion for two years as a Shunter as not being unjust in the circumstances, he sees no reason why he should be permanently reverted. He considers that there were others who should have taken action before his taking over the train and especially after his reporting that the train's brake power was inadequate, but no action has been taken against others and he has been singled out for punishment.

2. In reply, the respondents have stated that the applicant did not report regarding loss of brake power and take steps to hand over the train to the proper authorities. On examination, the brake power of the train was found to be 85% and it showed that the train could be controlled if the applicant had taken steps which he was expected to do in time, and with the necessary skill. The enhancement of the punishment was given only after considering whether the driver, who has shown such lack of skill and such slow reflex and time orientation, could be entrusted with the responsibility of driving trains with potential for hazards which such responsibility entails. The facts of the case has been gone into by a responsible enquiry committee, which has made a detailed report and the enhancement of the punishment has been made by the competent authority, who has the duty to make an assessment regarding the adequacy of punishment in the context of the responsibility assigned.

3. We have heard the learned advocates and perused the documents to satisfy ourselves whether any lack of opportunity arose for considering the representations of the applicant at any stage. We are fully satisfied that the inquiry committee has considered all the facts and circumstances of the case and that its findings regarding their responsibility for the accident have been objective and based on a proper assessment of all the circumstances. We also find that the C.O.P.S. who enhanced the punishment, has done so, after fully applying his mind to the representations of the applicant and with due regard to hazards that the applicant might have <sup>caused</sup> posed, had a milder punishment earlier given to him been allowed to stand. We fully agree with the C.O.P.S. that in the circumstances it would have been misplaced sympathy to have allowed the applicant to have had only a temporary reversion and to be left with the scope of having responsibility of a driver after sometime. We agree in the circumstances that even a higher penalty of dismissal could have been warranted and permanent reversion as a Shunter can be regarded as a light punishment as a result of a lenient view of the matter having been taken.

4. We find that the application has no merit and fails. We make no order as to costs.

*P. H. Trivedi*  
( P. H. TRIVEDI )  
Vice Chairman

*P. M. Joshi*  
( P. M. JOSHI )  
Judicial Member