

17

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK.

Original Application No.246 of 1988.

Date of decision : January 13,1989.

Sri Parsuram Mohapatra aged 49 years,  
son of late Manindra Mohan Mohapatra, at  
Hazarilane, Talatelenga Bazar, Cuttack-9  
working at present as a guard Palasa under  
Khurda Road Division. ...

Applicant.

Versus

1. The Union of India represented through the General Manager, S.E.Railway, Garden Reach, Calcutta.
2. The Divisional Railway Manager, S.E. Railway, Khurda Road Division, At/P.O. Jatni, Dist. Puri.
3. The Divisional Operating Superintendent, S.E. Railway, Khurda Road Division, At/P.O. Jatni, Dist. Puri.
4. The Divisional Personal Officer, S.E. Railway, Khurda Road.
5. Station Superintendent, Palasa Railway Station, At/P.O. Kasibugga, Dist-Srikakulam
6. The Inquiry Officer cum-Chief D.T.I., Berhampur, S.E. Railway, At/P.O. Berhampur, District-Ganjam.

... Respondents.

For the applicant ... M/s. A.K. Mohapatra,  
D. Patra, Advocates.

For the respondents ... M/s. B. Pal,  
O.N. Ghosh, Advocates.

-----  
C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. K. P. ACHARYA, MEMBER (JUDICIAL)

- 
1. Whether reporters of local papers may be allowed to see the judgment ?
  2. To be referred to the Reporters or not ? /ND
  3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.
-

J U D G M E N T

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the order of punishment passed by the competent authority against the applicant vide Annexure-10 is under challenge.

2. Shortly stated, the case of the applicant is that he is a Railway Guard under the South Eastern Railway and while he was posted as such in Khurda Road, he was directed by his authorities to perform certain official acts in due discharge of his duties as a Guard. The applicant did not obey the orders and therefore, a disciplinary proceeding was initiated against the applicant and 6 items of charges were framed and delivered to the applicant. A full-fledged enquiry was conducted in respect of charge nos. 4, 5 & 6 and the applicant was found to be guilty in respect of those charges by the Enquiring Officer and accordingly he submitted his finding to the disciplinary authority who in his turn concurred with the finding of the Enquiring Officer and ultimately ordered stoppage of increment for six months vide Annexure-10. The matter was carried in appeal and it did not yield any fruitful result as it is found from Annexure-11 that the appellate authority dismissed the appeal. Hence, this application with the aforesaid prayer.

3. In their counter, the respondents maintained that no illegality having been committed by the enquiring officer and principles of natural justice having been strictly observed and the case being one of full proof evidence, the order of punishment should be sustained and there being no

merit in the case, the same is liable to be dismissed.

4. We have heard Mr.A.K.Mohapatra, learned counsel for the applicant and Mr.B.Pal, learned Senior Standing Counsel appearing for the Railway Administration at some length. We have also perused the averments of the parties in the application under section 19 of the Administrative Tribunals Act, 1985 and in the counter and we have also perused the relevant documents and after giving our careful consideration to the arguments advanced at the Bar challenging the propriety of the impugned order we feel that rightly the enquiring officer came to the conclusion that the applicant was guilty of the charges relating to item Nos.4,5 & 6. We further find that the appellate authority was justified in dismissing the appeal. By no stretch of imagination we could come to a contrary finding that the applicant was not guilty of the charges which has been found to be established. In such circumstances, we do hereby confirm the order of the disciplinary authority and that of the appellate authority that the applicant is guilty of the charge nos.4,5,& 6. But in view of the fact that at one point of time it was ordered by the Divisional Operating Superintendent, South Eastern Railway, Khurda Road, vide Annexure-4 that all the minor penalty charge sheet issued against the applicant had been cancelled, we feel inclined to take a lenient view on the quantum of penalty. Therefore, we do hereby set aside the order passed by the Disciplinary authority withholding one increment of the applicant for six months and we feel that

an order censuring the conduct of the applicant would serve the ends of justice. Hence, we do hereby set aside the penalty of withholding one increment and we do hereby censure the conduct of the applicant with an observation that in future if similar misconduct is committed by the applicant, stringent view should be taken against the applicant.

5. Before we part with this case, we must observe that in connection with M.A.260 of 1988 we have passed an order on 8.11.1988 that the applicant should be permitted to appear in a written test and viva-voce for purpose of promotion to the next higher post and in case the applicant is found to be suitable promotion should be given with leave of this Court. Now that the case has been disposed of, this order is no longer effective and the railway Administration is at liberty to act according to law.

6. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

*[Signature]*  
13.1.89  
.....  
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

*g agree.*

*[Signature]*  
13.1.89  
.....  
Vice-Chairman

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
January 13, 1989/S. Sarangi.

