

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA 339 of 1996

Present : Hon'ble Mr. Nityananda Prusty, Judicial Member
Hon'ble Mr. M.K. Misra, Administrative Member

Sri Ujjal Kumar Das, S/o Late Jugal
Chandra Das, working as Station Master
(North Cabin), Eastern Railway, Ranaghat
under Divn. Safety Officer, residing at
2, Part Street, P.O. Ranaghat, Dist: Nadia.

.... Applicant

- Versus -

- 1) Union of India through the General Manager,
Eastern Railway, 17, N.S. Road, Calcutta.
- 2) Addl. Divisional Railway Manager(O), Eastern
Railway, Sealdah Division, Calcutta.
- 3) Senior Divisional Operating Manager, Eastern
Railway, Sealdah Division, Calcutta.
- 4) Divisional Safety Officer, Eastern Railway,
Sealdah Division, Calcutta.
- 5) Sri. S.K. Mallik, Assistant Operating Manager(G),
Eastern Railway, Sealdah, Calcutta.
- 6) Divisional Operating Manager, Eastern Railway,
Sealdah Division, Calcutta.
- 7) Divisional Personnel Officer, Eastern Railway,
Sealdah, Calcutta.

.... Respondents

For the Applicant : Mr. N.K. Roy, Counsel

For the Respondents: Mr. R.M. Roychowdhury, Counsel

Date of Order : 17-05-2004

ORDER

MR. NITYANANDA PRUSTY, JM

The applicant, who was working as Station Master (North Cabin), Eastern Railway, Ranaghat, has filed the present application for the following reliefs :

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- a) An order be passed directing the respondents, specially respondent no. 2 that in view of granting benefit of doubt in favour of the applicant in exercise of Appellate Jurisdiction, the extent and part of the penal order of reducing the applicant to the lower post and grade of signaller in scale Rs.1200-2040/- permanently as a new appointee as envisaged in the Appellate order dated 25-4-1995 is to be modified deleting and/or excluding such part of the said order as set out in Annexure-A/17 treating irregular, void and nullity in the eye of law.
- b) An order be passed setting aside the order dated 3.5.95 issued by the respondent No.7 as set out in Annexure.A/18 to the application directing the respondent to issue appropriate order restoring the original post and grade of Assistant Station Master in scale Rs.1400-2300/- to the applicant with fixation of pay to the appropriate stage treating the entire period from the date of suspension w.e.f. 15.4.92 to the date of reinstatement in service as spent on duty for all purposes and further direction be given for payment of arrears pay and allowances as well as remaining portion of pay and allowances for the entire period of suspension and also payment of interest at the rate of 15% on the total amount payable to the applicant.
- c) An order be passed setting aside and quashing the impugned order of removal from service dated 20-9-94 passed by the respondent No.3 as set out in Annexure-A/14 usurping the statutory jurisdiction of the disciplinary authority of the respondent no.4 and also quash the vitiated and perverted enquiry report as set out in Annexure-A/10 including the defective chargesheet dated 27.11.92 as set out in Annexure-A/I to the application.
- d) Any other order and/or orders as your Lordships may deem fit and proper.

2. The Ld. Counsel for the applicant submits that when the applicant was working as Station Master, Ranaghat Railway Station in the scale of Rs.1400-2300/- (RP), since 29.11.1989, he was performing his

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duties at the North Cabin of the Ranaghat Station on 14.4.1992. At about 18.40 hours an accident took place between S242 Dn. and Engine No.20243 WMA on the down main line and accordingly, a major penalty chargesheet dated 27.11.92 was issued against the applicant by the Divisional Safety Officer. On the basis of which an Enquiry Officer was appointed and the Enquiry Officer conducted the enquiry and submitted his report. Written defence brief has also been submitted by the applicant. Finally an order dated 20.9.1994 was passed by the Disciplinary Authority removing the applicant from service. The applicant preferred an appeal and the Appellate Authority, considering all the materials available on record, modified the order of punishment and finally giving benefit of doubt to the applicant, reduced the punishment "to that of reduction of the substantive post of Signaller in the scale of 1200-2040/- as a permanent measure, till the applicant is eligible for promotion in signallner's cadre, withdrawing the applicant from train passing duty and also seniority of the applicant is to be counted from the date of joining as Signaller in the scale of Rs.1200-2040/- (RS)". The applicant in this O.A. has mainly challenged the chargesheet itself inter-alia alleging that the chargesheet is completely defective since the chargesheet does not contain specific element of negligence or mis-conduct and only it indicates that the applicant is charged for violation of GR 3.40(i)(a), SR 5.14 and nowhere in the chargesheet anything was mentioned regarding negligence or mis-conduct on the part of the applicant. In support of the contention the Ld. Counsel for the applicant relied upon AIR 1994 SC 1361 which was also subsequently relied upon in another judgement reported in ATR 1986(i) 424.

3. However, during the course of hearing, Mr. Roy, Ld. Counsel for the applicant mainly assailed the order of the Appellate Authority dated 25.4.1995 (Annexure-A/17) and the consequential order dated 3-5-1995 (Annexure-A/18). Ld. Counsel submits that since the Appellate Authority already arrived at findings by giving the applicant benefit

of doubt, he should ~~not have imposed~~ punishment by reducing of substantive appointment to the post of Signaller in the scale of Rs. 1200-2040/- which also amounts to consequential future punishment. When this was brought to the notice of Mr. Roychowdhury, Ld. Counsel for the respondents, he fairly submits that since the benefit of doubt has already been given by the Appellate Authority in favour of the applicant, the matter may be sent back to the Appellate Authority for his re-consideration and to dispose of the appeal in accordance with law on the basis of the benefit of doubt given in favour of the applicant.

4. Considering the submissions made by the Ld. Counsel for both the parties, we are of the considered view that since benefit of doubt has been extended in favour of the applicant, major punishment should not have been imposed on him and in that view of the matter the order of the Appellate Authority dated 25-4-1995 (Annexure-A/17) and consequential order dated 3-5-1995 (Annexure-A/18) are hereby quashed/set aside. The matter (appeal) is remanded back to the Appellate Authority for his re-consideration. The Appellate Authority is directed to dispose of the appeal by passing a reasoned/speaking order afresh keeping in view of his own observation made in para (i) to (iv) of the order dated 25.4.1995 as well as the consequential ordering portion where he himself has given benefit of doubt to the applicant and ~~on~~ observation made above within three months from the date of communication of this order.

5. It is made clear that in case the order goes in favour of the applicant in the appeal, all consequential service as well as monetary benefits be extended in his favour within two months from the date of the order passed by the Appellate Authority.

6. The O.A. is accordingly allowed/disposed of with the above observation/direction. There shall be no order as to costs.


Member (A)


Member (J)