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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**Original Application No. 205 of 2008
Jodhpur, this the 18 day of Sept., 2009.**

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Hon'ble Dr. K.B.Suresh, Member (Judicial)

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Indrapal S/o Sh. Jangali, by caste Pasi (SC) aged about 53 years, resident of 5/159 M.P. Nagar, Bikaner, at present working as C.M.S., North Western Railway Workshop, Bikaner.

Applicant.

[By Advocate : Mr. Nitin Trivedi]

-Versus-



- (1) Union of India through the General Manager North Western Railway, Headquarters Office, Jaipur.
- (2) The Chief Workshop Engineer, North Western Railway, Headquarters Office, Jaipur.
- (3) The Chief Works Manager, North Western Railway - Workshop, Bikaner.
- (4) Sh. Ram Pratap, Enquiry Officer - cum Assistant Works Manager, North Western Railway Workshop, Bikaner.

Respondents.

(By Advocate : Mr. Manoj Bhandari)

**: O R D E R :
[BY THE COURT]**

The applicant an employee of the Railways working as CMS-I in the Workshop at Bikaner. Apparently, the Coach No. 4053 of Train No. 4743 of the North Western Railway between Pratap Nagar and Delhi Cantt. was derailed due to breakage of Axle on account of material failure of the aforesaid A.C. Coach

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just after the train started from line to Loop Line. Thereafter, a Memorandum was issued to the applicant vide letter dated 16.1.2006 under Rule (9) of the Railway Employees (Discipline and Appeal), Rules, 1968 by the 3rd respondent which is Annex. A/4. In the Memorandum, an allegation was levelled against the applicant that the de-railment of the coach of the Train No. 4743 was occurred on 11.11.2005 because of the breakage of Axle of the Wheel of AC Coach No. C-1053 is due to material failure. The said Coach was apparently tested at Bikaner Workshop on 19.9.2005 and an Ultra Sonic Test (UST) was made by the applicant Sh. Indra Pal Yadav and the Railway alleged that since the applicant did not apply the test properly, hence, the defect could not be detected and timely corrective action could not be taken and thus such an act of the applicant tantamount to misconduct and violative of the Railway Services Conduct Rules.



2- Apparently, a preliminary inquiry was also conducted in which, it was found that, as the applicant will submit that the Axle had failed because of multinuclei fatigue from the fillet portion near the inner wheel sheet area, initiated from tool/machining marks left over the fillet area as is clear from the tool and machine marks left at fillet area. Apparently, the fact reveals that 70% slow fatigue, 15% fast fatigue and 15% crystalline face caused at the time of such failure as appeared from the conclusion of the preliminary inquiry. Apparently, at the time of inquiry, the preliminary inquiry report was not provided to the applicant but, which, he later was able to produce it as

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Annex. A/5. Apparently, Annex. A/5 would say that **there was a possibility of detecting the failure during the last test done on 19.9.2005** on visual observation. Apparently, in the fillet portion which is near the fracture area deep and rough tool/machining marks were seen on the inner wheel seat fillet portion as expressed in Para No. 4 of the Report. From these machining marks, the fatigue had originally originated. Slow fatigue was discovered to the tune of 70%, crystalline progression of 15% and only 15% was detected as fast fatigue. The Report has mentioned that, "Although the said axle had failed due to multinuclei fatigue but considering the fact that the axle had covered 70% smooth fatigue and 15% fast fatigue at the time of failure and was tested two months back, there was a possibility of detecting it during last UST". **The preliminary inquiry is apparently silent on the rate of progression of fatigue or whether any extraneous factors have contributed to the fatigue of the axle.** The report also find that the fragmentation commenced from the tool and machining area left at the fillet area. **It was not explained as to how the tool and machining marks were found at that area.** But, in Annex. A/1 words from the defence statement of the applicant is given. The applicant had maintained that as a sub standard and old disc dewheeled from a bent axle of a goods wagon was fitted with the Coach and then assembled box had fallen down leading to de-railment. He had apparently pleaded that there was no fatigue in the old axle and there was nothing abnormal found during the UST. For this no specific reply was made by



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the General Manager yet, he passed Annex. A/1 order by reposing a blind faith in the efficacy and liability of those who conducted the preliminary inquiry. If the rake had within it substandard machinery of a different metallic calibrations as coming from a goods wagon, it is quite possible going by toivets of forensic engineering that it itself may generate metal fatigue by inducing crystal formation and offering forces. Therefore, this aspect of the matter was not considered at all nor was the applicant given a chance to explain his side of defence. The fact that since the progression of fatigue was not ascertained by any scientific methodology; fatigue progression or a comparative study with other moving parts of the same axle and wheel assembly is not seem to have been made. There appears to be some reasonableness in the submission of the applicant that the Railways wanted him to be a scape-goat and, therefore, in order to make a report to the superior officers, the applicant was chosen as the fall guy.




3- The applicant questions; time gap between the UST and the accident. No one seem to have made even an attempt to measure the rate of progression of metal fatigue in an axle especially when that has been taken from a Goods Wagon and substituted into a Passenger Train. We can readily assume that the Axle of a Goods Wagon would have born much more stress than the Axle of a Passenger Train. The comparative differential between the said Axle and the nearby Axles alone would be sufficient if induce to material change in the composition of the

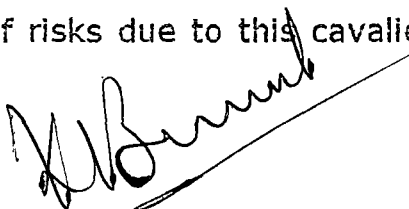
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metal. Even though, scientific data is available freely in Engineering Journals and even in the Internet, none of it seems to have permeated the judicious vision of the concerned officials. The following questions ought to have been answered before finding the applicant guilty of the charge framed by the respondent-department :

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- (i) What is the affect and consequence of substituting a bad wheel from a de-wheeled axle and substituting it into a passenger train ?- When was it substituted ? was it done before or after the Ultra Sonic Test ? What will be the added effect if such a component come from a Goods Wagon?
 - (ii) What is the rate of progression of Metal Fatigue ? Was it ever assessed ? What was the rate of Metal Fatigue available in all other Axle of the same Coach ? Was it ever assessed ?
 - (iii) What is the significance of 15% crystal formation and was there any ~~locus~~ in the design parameters or the composition of metal ?
 - (iv) - How was the uniformity of metal composition in allotted axles in the same Coach assessed ? Was a fatigue found there ? What is the reason for ~~lack~~ uniformity and
 - (v) What is the significance of the two months gap between the Ultra Sonic Test and the accident ? How was it positively asserted that the metal fatigue started before the Ultra Sonic Test ? Is there any process of recording the percentage of fatigue?

4- All the aforesaid questions remain un-answered. The inquiry including the preliminary inquiry and the domestic inquiry which followed by were conducted with a casualness which is unbelievable. **It seems to be apparent that the respondents were only trying to create a scape-goat and not to find out the actual reasons for the de-railment.** Thousands of people are traveling in the trains are subjected to enhanced proportion of risks due to this cavalier attitude of the

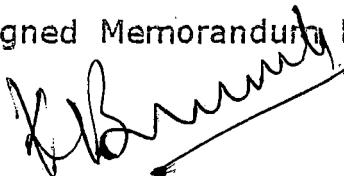


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Railway authorities. On coming to know that metal fatigue was the reason for the derailment a deeper and penetrative enquiry should have been held starting from reexamination of the design parameters, examination of the metal composition and a deeper forensic engineering test. Ordinarily metallurgy is a developed subject in the world today. Similar accidents have taken place all the world over and the reports thereof are also available **but, unfortunately, 'sweeping under the carpet procedure' was adopted by the Railways.** This casual approach may lead to further accidents in future, so it must be held that the Railways had erred a most grave fashion in not only relating to applicant but also the general public which are its customers.

5- The Railways have given formal replies that they have the power and had utilized the power in apparently in an just manner. In Para 24 of their reply they have held that there was possibilities of detection. **For a mere possibility, you cannot find a man 'guilty'.** Relating to the defence produced by the Railways in Para 29, the less said is better. On a cumulative assessment of all this, the following orders are issued :

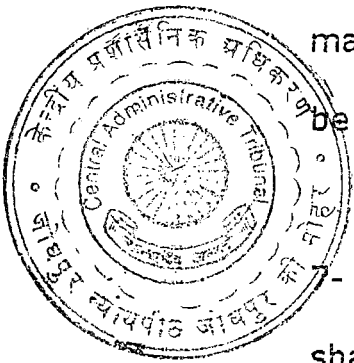
6- It is hereby declared that there is no scientific data available to attribute the reason for material failure and breakage of axle of wheel of AC Coach of Train No. 4743 on 11.11.2005 and the incident did not occur for the inaction on the part of applicant. The proceedings arrived at in issuing the applicant with the impugned Memorandum by the disciplinary




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authority as well as the inquiring authority was not according to the procedure laid down and that reports are contrary to the scientific ratio, the legal principles and even ethics. In consequence thereof, the Inquiry Report at Annex.A/1, Annex. A/2 and Annex. A/3 are quashed. All the appropriate benefits due normally to the applicant have to be paid to him along with interest @ 12% per annum. A copy of this order shall be forwarded to the Chairman of the Railway Board to enable him to conduct a fresh and deeper and penetrative enquiry into the matter and to arrive at the truth so that citizens of India will not be harmed and prejudiced.



7- In view of the circumstances of the case, the Railways shall pay a cost of Rs. 5,000/- to the applicant.


8- The O.A. is allowed as above and disposed of accordingly.


 (Dr.K.B.Suresh)
 Judl.Member

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RIC
NISAA A
to NISAA 70104
20/9/89

Part II and III destroyed
in my presence on 8/2/89
under the supervision of
section officer () as per
order dated 07/07/88


Section officer (Record)