

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.377/2001

Dated Tuesday this the 18th day of February, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

K.S.Sreedharan Pandaran
S/o K.V.Sankaran
Station Master Grade II
Southern Railway
Wadakkanchery
Residing at XIII,637/1
Behind Metropolitan Hospital
Thrissur.

Applicant.

[By advocate Mr.T.C.Govindaswamy]

Versus

1. Union of India represented by
The General Manager
Southern Railway
Headquarters Office
Park Town P.O.
Chennai.
2. The Additional Divisional Railway Manager
Southern Railway, Trivandrum Division
Trivandrum.
3. The Senior Divisional Operations Manager
Southern Railway, Trivandrum Division
Trivandrum.

Respondents

[By advocate Mrs.Rajeswari Krishnan]

The application having been heard on 18th February, 2003,
the Tribunal on the same day delivered the following.

O R D E R


HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

Applicant while working as Station Master Grade III at
Mattanchery Halt Railway Station during 1998 was served with A-1
memo proposing to take action under Rule 11 of the Railway
Servants (Discipline and Appeal) Rules, 1968 for alleged charges
which read as follows:

"Sri.Sreedharan Pandaran SM III/MTNC while working on 20.24.06 duty at MTNC on 20/21.6.1998 has failed to attend to the control phone for a long time at a crucial time and he has purposefully delayed vital information to the control and Station Master at other end and thus he has violated item (C) of Appendix-D of SWR of MTNC and G.R. 2.11.1 (b) and Rule No.3(1) and (ii) Railway Service Conduct Rules 1966.

Sd/-
Sr.DOM/TVC"

He immediately submitted A-2 explanation stating that he has not been able to understand anything from the charge memo at what point of time he had failed to attend the control phone, as to which vital information was delayed, that the charges were too vague and ambiguous, that the proceedings may be dropped and that in case his explanation was found not acceptable, an enquiry may be held in accordance with Rule 11 of the Railway Servants (Discipline & Appeal) Rules, 1968 after giving the details regarding the documents relied on. After considering the A-2 explanation submitted by the applicant, A-3 order was issued by the 3rd respondent stating that his explanation was found not acceptable, that he had given his explanation to DSO/TVC on 21.6.98 about the detention to train No."MDKS Spl. in Section", that he was aware of the shortcomings on his part, that as the penalty proposed was only a minor one, no enquiry would be held and that he was awarded a penalty of withholding his annual increment for a period of 12 months (NR). Aggrieved by A-3 order, the applicant submitted A-4 appeal. Finding that the appeal was not considered and disposed of, he submitted A-5 reminder dated 8.4.99 to the 2nd respondent. The second respondent rejected the appeal of the applicant by order dated 23.6.99 treating A-5 as an appeal on the ground that it was time barred. Applicant filed OA No.881/2000 before this Tribunal and this Tribunal disposed of the OA directing the 2nd respondent to




consider A-4 appeal on merits and pass a considered order. The 2nd respondent passed the impugned order A-9 dated 25.10.2000 confirming the penalty. Aggrieved, the applicant has filed this application impugning the memo of charges Annexure A-1, the Penalty Advice Annexure A-3 and the Appellate Order Annexure A-9. The applicant has challenged the orders on the ground that the memo of charges was too vague and ambiguous, that A-3 which imposed penalty did not contain any valid reason for dispensing with the enquiry nor did it contain any finding of guilt of the applicant, that he had sought an enquiry which has not been held and that the appellate order was totally bereft of application of mind.


2. Respondents seek to justify the impugned orders by filing a reply statement.

3. We have heard the learned counsel of the applicant as also the learned counsel of the respondents.

4. On a careful scrutiny of the materials and on hearing the learned counsel on either side, we find considerable force in the argument that A-1 memo was totally vague. From a reading of the memo of charges which has been extracted in paragraph 1 of this order, it is evident that the allegations contained therein are totally vague as to what was the point of time the applicant had failed to attend the control phone, what vital information was delayed and to whom etc. have not been made clear in the charges. The applicant was at a loss to understand what were the actual charges he was bound to answer. Despite the fact that the



applicant has made clear in his representation that he has not been able to understand what was the real charge and although he had sought an enquiry to be held, the Disciplinary Authority on consideration of the explanation did not hold an enquiry and found the applicant guilty as is seen from A-3 order. This action of the Disciplinary Authority is in total violation of the principles of natural justice as nobody should be condemned without being heard. Even in the latest ruling of the Apex Court in 2002 SCC L&S 188 O.K.Bhardwaj Vs. U.O.I & Ors. it has been held that even in a case of minor penalty when the facts are disputed and if the delinquent servant requests for an enquiry, an enquiry should be held. In the Railway Board's circular No.17/86, a copy of which is annexed as Annexure A-10 the requirements of holding an enquiry in cases where the railway servant disputes the facts and specifically requests for an enquiry have been highlighted. In fact, by passing A-3 order, the Disciplinary Authority did not consider the fact that the applicant had complained about the vagueness of the charges and pleaded ignorance of the allegations and he had sought an enquiry. The statement alleged to have been made by the applicant on 21.6.98 about the detention of Train No."MDKS Spl. in Section" and relied on in A-3 order has not been adverted to in the A-1 memo of charges. Therefore, the matters which were not brought to the notice of the applicant in the memo of charges and the statement alleged to have been recorded behind his back had been considered as sufficient reasons to find the applicant guilty. This has violated the principle of natural justice. A-9 order is equally bereft of application of mind as the important aspect whether the charge was vague and whether an enquiry was proper has not been considered by the Appellate Authority.



5. In the light of what is stated above, we find that the impugned orders are not sustainable. Accordingly A-1, A-3 and A-9 orders are quashed.

Dated 18th February, 2003.



T.N.T.NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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