

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
LUCKNOW**

**Original Application No. 77/2008**

This the 08<sup>th</sup> day of February, 2016

**Hon'ble Mr. Justice Harun-Ul-Rashid - Member - J**  
**Hon'ble Mr. Uday Kumar Varma, Member - A**

Lal Ji Singh S/o Late Sri Raj Bahadur Singh, aged about 59 years R/o Vill. Narainpur, Post - Bharthipur, P.S. Lambhua, Distt. Sultanpur.

..... Applicant

By Advocate: Dr. A.K. Singh

**VERSUS**

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. A.D.R.M. Dhanbad (E.C.R.)
3. Disciplinary authority Divisional Mechanical Engineer (P), Dhanbad.

..... Respondents

By Advocate: Sri B.B. Tripathi

**O R D E R (ORAL)**

Delivered by:

**Hon'ble Mr. Justice Harun-Ul-Rashid - Member - J**

Dr. A.K. Singh, learned counsel for the applicant and Sri B.B. Tripathi learned counsel for the respondents are present.

2. The present O.A is filed seeking to quash the Annexure No.1 impugned order dated 30.11.2006 and for a direction to the respondents to pay the salary alongwith departmental other benefits from the date of compulsory retirement of the applicant till his actual date of retirement.

3. While working as Loco Pilot (Diesel) a major penalty Memo has been issued to the applicant. Charges levelled are that the applicant had driven UP Bina Pilot between Mirchadhuri and Karaila Raod from KM 0171/14 to Krishnashila without Assistant Pilot on 27.12.2005 and secondly the applicant had sold diesel during the above trip violating the Railway Service Conduct Rule 3(1)(iii), 1996.

4. Enquiry was conducted and the applicant was given opportunity to defend the charges. He filed the reply denying the charges levelled against him. The applicant gave evidence stating that he has worked the train safely. The charge against him is of misconduct of working without his assistant pilot. The Enquiry Officer recorded the statement of the Assistant Loco Pilot Sri Butu Murmu who unequivocally stated in his evidence that the applicant deliberately instructed the Assistant Loco Pilot to go back to check the load. The Enquiry Officer also recorded the statement of the delinquent employee. The Enquiry Officer also referred to the relevant GR 4.20(1) Manning of Engine in motion. GR 4.20(1) reads as follows:

**“4.20(1) Except when otherwise provided by special instructions, no engine shall be allowed to be in motion on any running line unless the Driver as also the Assistant Driver or the Fireman are upon it.”**

5. The Disciplinary Authority based on the Enquiry report, the materials on record and the statement of Sri B.

Murmu came to the conclusion that the applicant intentionally operated the train without the assistance of Assistant Loco Pilot. This findings were recorded by the Disciplinary Authority after placing reliance on the enquiry report, relevant safety rules and the statement of witnesses. The contention raised by the applicant that the statement of Sri B. Murmu, Assistant Loco Pilot is with malicious intentions is not supported by any evidence. The Enquiry Officer and Disciplinary Authority did not agreed with the contentions that the statement was given with malicious intentions.

6. The second charge relating to the unauthorised sale of diesel, Disciplinary Authority agreed with the findings of the Enquiry Officer. He was given benefit of doubt. The applicant was exonerated from the second charge.

7. The applicant filed appeal against the findings of the Disciplinary authority dated 11.08.2006. The Appellate Authority after examining the findings of the enquiry report, the reply submitted by the delinquent employee and the relevant materials on record, agreed with the findings recorded by the Disciplinary Authority regarding the finding that the applicant is guilty of violation of safety rules. The Disciplinary Authority awarded the punishment of compulsory retirement from service w.e.f. 18.08.2006. The statement of Assistant Loco Pilot, delinquent employee, major memorandum, reply to memorandum, defence note,

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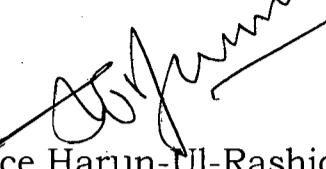
enquiry report, representation of the applicant are relied on by the Appellate Authority. The applicant and Sri B. Murmu booked to work on Train No. Down 16146+16428 with load. That the said train started at 03.05 Hrs and arrived Obra Dam at 6.45 Hrs on the same day. It is found that Km 171/14 pressure of load was dropped, the applicant instructed Sri B. Murmu to check the load and informed through walkie talkie of guard of the train. The materials on record would show that the enquiry was held in accordance with the rule and that the Appellate Authority agreed with the findings recorded by the Disciplinary Authority. The statement of Guard dated 10.04.2006 attached with the representation dated 24.06.2006 of the delinquent employee was found not correct because it was never produced during enquiry though the enquiry was concluded on 26.04.2006 and the applicant fail to submit the same alongwith the defence note .

8. The findings recorded by the Disciplinary Authority are on the basis of materials on record. The Appellate Authority also considered the contentions raised by the applicant and agreed with the findings recorded by the Disciplinary Authority. From the evidence of record, it is established that the applicant is guilty of working on train without assistant loco pilot on 27.12.2006 which is violation of GR 4.20(1) and the applicant had violated the rule while working at the train, is a serious misconduct. We do not find any reason for

interference with the findings of the authorities. The O.A is without any merit and accordingly dismissed. No costs.

Uday Kumar Varma

(Uday Kumar Varma)  
Member (A)

  
(Justice Harun-Ul-Rashid)

Member (J)

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