

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. No. 63 of 2006

Patna, dated the 15th November, 2006

CORAM: The Hon'ble Ms. S. Srivastava, M[J]

The Hon'ble Mr. S.N.P.N. Sinha, M[A]

Shyam Babu Ray, Khalasi, TRD, Danapur Division, EC Railway,
Danapur.

Applicant

By Advocate: Shri M.M.P. Sinha

-versus-

1. The Union of India through the General Manager, EC Railway, Hajipur.
2. The Chief Operating Manager, EC Railway, Hajipur.
3. The Divisional Railway Manager, EC Railway, Danapur Division, PO Khagaul, District Patna.
4. The Additional Divisional Railway Manager, Danapur Division, EC Railway, PO Khagaul, District Patna.
5. The Sr. Divisional Personnel Officer, Danapur Division, EC Railway, Danapur, PS Khagaul, District Patna.
6. The Sr. Divisional Electrical Engineer, TRD, Danapur Division, EC Railway, PO Khagaul, District Patna.

Respondents

By Advocate: Shri R.N. Chaudhary

ORDER

S.N.P.N. Sinha, M[A]:-

The present application has been filed for quashing the order of punishment against the applicant dated 8.2.2005 passed by ADRM, EC Railway, Danapur Division. The applicant was working as Tower wagon Driver in the scale of Rs. 400⁰-6000. On 12.2.2004, an accident occurred while the applicant was working as Tower Wagon Driver in Tower Wagon No. 2902. An inquiry was conducted by a Committee consisting of Sr. DEE, TRD, Sr. DSTE


and Sr.DSO, Danapur. Subsequently, a major penalty charge-sheet was issued against the applicant fixing responsibility on him for disregarding red signal. By order dated 10.9.2004, Sr.DEE, TRD, Danapur issued a punishment order of compulsory retirement from service. An appeal was preferred by the applicant on 21.9.2004 to ADRM who, by order dated 8.2.2005, reduced the punishment from compulsory retirement to reduction to next lower post and grade in the scale of Rs.2550-3200 at basic pay of Rs.2550/- without restoration to scale of Rs.,3050-4590. A revision application was submitted by the applicant which has been rejected by order dated 19.2.2005. It was submitted on the applicant's behalf that the punishment has been imposed by Sr. DEE, TRD who also happened to be a member of the Facts Finding Committee. It was further stated that DEE, OP, was the disciplinary authority whereas Sr.DEE, TRD has issued the punishment order. The applicant was working in the pay scale of Rs.4000-6000 and his pay was reduced to the scale of Rs.2550-3200, between the two, there are two more scales of Rs.2650-4000 and Rs.3050-4590. Such a reduction amounts to double penalty which is illegal and wrong as per Railway Servants [D&A] Rules, 1968.

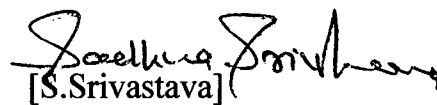
2. It was submitted on the respondents' behalf that at the time of completion of DAR enquiry proceedings, the post of DEE [OP] [Disciplinary Authority] was already shifted to HQ, Hajipur, as such, only Sr. DEE,TRD remained as Disciplinary Authority. Sr. DEE, TRD was a member of Fact Finding Committee as well as the Disciplinary Authority but in this case, two different incumbents held the post in the respective period. It was further submitted that the

punishment imposed in this case is as per Railway Board guidelines [Memo No.99 Safety/A[&R]1, New Delhi,dated 23.4.99

3. The point mentioned on the applicant's behalf regarding the Disciplinary Authority and the authority issuing the punishment order has been, it will appear from the record, answered by the respondents. The one issue, which evidently remains to contend with is the punishment meted out to the applicant. Reduction to a lower scale with an order for fixation at a stage further lower than one from which the employee was promoted or which he would have normally drawn, ~~is~~ as a reading of the Rules [Railway Servants [D&App.] Rules, 1968, would reveal, appears to amount to double penalty which may not be permissible.

4. The application, therefore, is disposed of at this stage itself with direction to respondents to consider the applicant's case in view of the aforesaid and take a reasoned decision in the matter within a period of three months from the date of receipt of a copy of the order. No order as to the costs ,


[S.N.P.N.Sinha]
Member[A]


[S.Srivastava]
Member[J]

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