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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA No. 1083/1993

Date of Decision: 3-1-1997

BETWEEN:

A. Venkateswarlu

.. Applicant

AND

1. Union of India represented by
General Manager, South Central
Railway, Rail Nilayam,
Secunderabad.
2. Additional General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.
3. Chief Mechanical Engineer,
South Central Railway,
Rail Nilayam,
Secunderabad.
4. Divisional Railway Manager,
South Central Railway,
Guntakal Division,
Guntakal



.. Respondents

Counsel for the Applicant: Mr. G. Ramachandra Rao

Counsel for the Respondents: Mr. N.R. Devaraj

CORAM:

THE HON'BLE SHRI R. RANGARAJAN: MEMBER (ADMN.)

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: MEMBER (JUDL.)

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of the disciplinary authority as well as of the appellate authority in this Tribunal through original application No.539/87.

(v) The disciplinary authority while passing the orders dated 12.5.87 had furnished a copy of the report of the inquiry officer but had failed to secure explanation to the report of the inquiry officer from the applicant. On that technical ground, this Tribunal by its order Dt.20.12.89 (Annexure A-8) quashed the punishment imposed on the applicant reserving the liberty to the disciplinary authority to proceed afresh after securing the explanation of the applicant to the report of the inquiry officer, and to pass suitable orders.

(vi) On 30.5.90 the applicant offered his explanation to the report of the Inquiry Officer. It is surprising that the applicant has not furnished the copy of his explanation to the report of the Inquiry Officer, along with his O.A.

(vii) On 1.10.90/23.10.90 the disciplinary authority considering the findings recorded by the inquiry officer and the various contentions raised by the applicant in his explanation imposed the punishment of compulsory retirement from service on the applicant. Against the said imposition of penalty, the applicant preferred an appeal to the appellate authority. The appellate authority by its order Dt.4.10.91 dismissed the appeal.

Against this order of the appellate authority, the applicant preferred a revision before the revisional authority. On 11.12.92 the revisional authority dismissed the revision of the applicant. Thus the punishment of compulsory retirement from service imposed on the applicant by the disciplinary standg confirmed.

5 (i) It is these orders that has^{ve} been challenged by the applicant in the original application on the grounds that the respondent No.4 was not the competent disciplinary

Rs.550-750 (Revised Scale) during the year 1980. Thereafter, the applicant was promoted as Diesel Driver Instructor/Loco Foreman in the scale of Rs.700-900 (RS) during the year 1984.

(ii) During the year 1985-86, the applicant was working as the Loco Foreman, Loco-shed, Nandaluru. As a supervisory Officer of the Locoshed, he had conducted monthly routine checks of the ⁱⁿ coal loco-shed, on 1.2.86. On that date, there was shortage of coal in the loco-shed. The ground balance of coal was 797.5 tonnes and that shortage was 12.8 tonnes i.e. 0.18%. It is stated that the said shortage of coal was within permissible limits under the rules.

(iii) On 11.2.86 the vigilance cell attached to South Central Railway conducted surprise check of the loco-shed, Nandaluru, and found shortage of coal to the tune of 166.19 tonnes (38%). With regard to this shortage, the disciplinary authority served the articles of charge on the applicant on 21.8.86 (Annexure A-3). The respondent-4 was the disciplinary authority. On 17.9.86 the applicant offered his explanation to the articles of charge. His explanation is at Annexure-4. A senior Inquiry Officer was appointed to ^{into} inquire the charges levelled against the applicant. The inquiry officer conducted inquiry on 22.12.86 and 25.3.87. On 25.3.87 the applicant submitted his defence statement. His defence statement is at Annexure-4. On 31.3.87, the inquiry officer submitted his report holding that the charge levelled ^{against the} on applicant has proved.

(iv) Considering the report of the inquiry officer, the disciplinary authority imposed the penalty on the applicant 'Compulsary Retirement' from service. The applicant preferred an appeal against the said punishment. The appeal was rejected on 21.7.87. The applicant challenged the orders

considered the defence witness examined by him. That the appellate authority and the revisional authority have blindly accepted the order of the disciplinary authority without considering the legality and validity of the findings and the witness given by the delinquent employee.

(iii) That the disciplinary authority concluded the inquiry with a pre-determined mind and pre-conceived opinion that he was responsible for the shortage. The disciplinary authority held him responsible for the shortage, that he happened to be the custodian for the coal and other material stocked in the loco-shed. That he was only a General Supervisor of the loco-shed but not the custodian directly responsible for the shortage of coal, that it was the duty of the fuel keeper (Shri S.A. Gafoor) to maintain relevant stock registers/books, day to day transactions and issuance of coal etc. that he was directly responsible for the shortage and that these aspects have not at all been taken into consideration by the respondents 4, 3 and 2 and the inquiry officer.

(iv) That ^{the} ~~a~~ punishment imposed on him is disproportionate to the charges levelled against him, that the punishment is arbitrary and unjust, that even according to the respondents 4 to 2 he was only negligent in his supervisory duties ^a ~~and~~ that he was not directly responsible for the shortage of coal, that he had put in 26 years of service in different capacities and had earned cash awards for his dedicated service, that the punishment imposed on him is discriminatory and violative of Article 14 of the Constitution of India, that the fuel keeper Shri S.A. Gafoor was directly responsible for shortage of coal, that he was guilty of not maintaining proper records that a punishment of reduction to ^a ~~the~~ lower post for a period of 2 years was imposed on S.A. Gafoor

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authority to initiate disciplinary proceedings against him and to impose a major penalty of compulsory retirement that as per rule 2-(c) ^{of} The Railway Servants (Disciplinary & Appeal) Rules 1968 (the Rules 1968), that the disciplinary authority in relation to Rule.9 in respect of any non-gazetted Railway Servant is the authority competent. The penalties ^e enumerated in Rule No.6, viz, the major penalties of dismissal, removal or compulsory retirement can be imposed only by the Appointing Authority, that the respondent No.4 is not the appointing authority within the Rule-2a of the said rules, that, therefore, the disciplinary proceedings initiated against him are illegal, invalid and without jurisdiction, that the procedure ^{was} violated during the inquiry, in examining the witnesses contrary to law, that the 2nd witness Sri S.A. Gafoor, was examined on behalf of the disciplinary authority, that the said S.A. Gafoor was a delinquent employee and was not examined in full by recording his statement afresh by the inquiry officer, that the statement given by him earlier to the vigilance inspector during his absence was stated to be his statement and this procedure is contrary to law and that the findings of the inquiry officer held him guilty.

(ii) The statement given by the defence witnesses was not brought ^{on} to record. That there is absolutely no record to hold him guilty of charges. In the statement given by the vigilance inspector before the inquiry officer did not show anything as to the quantum of shortage of coal when inspected by him in the locoshed on 11.8.86, that the Inquiry officer relied upon the statement given by the delinquent employee before the vigilance inspector, that the statements given by other ~~he was holding a delinquished employee~~ in the position of an accomplice and his statement could not at all have been relied upon for holding him guilty. The inquiry officer had not properly

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(viii) That in other ~~stages~~^{respects} it was only fuel checker who was directly responsible as he was used to be in touch with his duties and his legitimate duty is to report the shortcomings to loco foreman. In this case the fuel checker had not brought to his notice any shortage ^{of coal} between 2.2.86 and 10.2.86, that S.A. Gafoor, Fuel keeper, was responsible for receipts/issues of coal and for proper maintenance of accounts. That between 2.2.86 to 10.2.86 these duties were performed by S.A. Gafoor only that only shortage could have taken ^{place} only with the knowledge of Sri S.A. Gafoor, that therefore, S.A. Gafoor was only responsible for the shortage. That loco Foreman's orders are not required for proper maintenance of records, that it is the bounden duty of fuel keeper to advise shortages to the loco foreman based on the records.

(ix) Therefore in this case the fuel keeper has miserably failed in not advising the shortages occurred during the period 2.2.86 to 10.2.86.

6. That the respondents have filed reply affidavit stating that the applicant was working as Loco-Foreman, loco shed, Nandaluru, between 26.2.85 and 19.3.86, that he was overhaul incharge of the loco shed and was responsible for the maintenance and the working of the entire locoshed, that the other staff working under him were required to perform the work entrusted to them and were answerable to the applicant, that the applicant was incharge of one locoshed that it was not possible for any item to go out of the loco shed without his knowledge, or while that whereas on 11.2.86 a huge stock of coal weighing about 116.19 tonnes (38%), was found missing from the loco shed, that the applicant was responsible to account for the materials under his control and for maintaining correct accounts of the same, that the applicant could not even make out or explain

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and whereas a major penalty has been imposed on him.

(v) That as on 1.1.84 Mr. N. Muralidhar Das, who was the Head Clerk and Fuel Clerk was given punishment of withholding 2 increments for the shortage of 199.1 tonnes of coal, that the said punishment was later reduced to 12 months by the Appellate Authority, that one J. Appala Raju, who was a fuel keeper was imposed a punishment of withholding increments for 2 years, for shortage of 1,166 liters of High Speed Diesel Oil in the loco-shed, that in this instance the fuel keeper was directly responsible for the shortage and not the supervisory officer of the loco-shed, that even that fuel keepers was let off with a minor punishment, that, therefore, punishment imposed on him is discriminatory.

(vi) That as Loco Foreman he was not the custodian of all stores, dead stock, coal, cinders, etc, but was overhead ~~in~~ ^{Stocks -} incharge of the locoshed of various items of materials that for custody of stores, necessary staff was provided and individual responsibility was fixed by DME/GTL vide letter No.G/M.535/C Dt.24.3.87, that, therefore, the loco-foreman cannot be fixed with the responsibility of stock for the simple reason that he happened to be head of the loco shed, that his periodical check of the coal was once in a month only and when shortage was reported or noticed he would take immediate steps to arrest them, that answering of stock verification reports would be based on the reports submitted by the fuel-keeper and not on the personal knowledge of the loco-foreman.

(vii) In view of the above explanation, the loco foreman is not at all the custodian of the coal, that he was overhaul supervisor of the loco shed that his duty was to check the coal ^{only} once in a month and during this check, if any shortage was noticed he could take immediate steps to arrest them.

Shri S.A. Gafoor, fuel keeper and that the applicant was called to the Vigilance Division of South Central Railway and his statement was recorded on 3/4.4.86 and that of Sri S.A. Gafoor on 23.8.86. That in accordance with Railway Board's letter No.E(D&A)83 RG 6.14 Dt.29.3.85 circulated vide letter No.P(R)227/VIII Dt.16.5.85, Simultaneously with the issue of articles of charge orders appointing the inquiry officer as well as the disciplinary authority, where one is intended to be appointed, has to be invariably issued. That the inquiry may start only after the disciplinary authority remits the case to the inquiry officer that the special inquiry officer conducted into the charges levelled against the applicant and found him guilty, that the applicant had earlier suffered penalties for negligence in his duties, that there are no reasons to interfere with the punishment imposed on the applicant and that the application be dismissed, ^{with costs} ~~no costs~~.

7. In view of the various contentions raised by the learned counsel for the parties, the following points arise for our consideration:-

- a) Whether the applicant is not accountable for the shortages of 166.19 tonnes of coal (38%) noticed by the Vigilance Cell of S.C. Railway on 11.2.86 at Loco Shed, Nandaluru ?
- b) Whether disciplinary proceedings conducted against the applicant has any infirmity so as to vitiate the same?
- c) Whether the punishment imposed on the applicant is disproportionate to the quantum of charges, as averred?
- d) Whether the applicant is entitled to any of the reliefs claimed in the petition, if so what all that.
- e) To what order

8. Our findings:-

Point (a) ^{the} Applicant is liable to account the shortages

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how such a huge stock was ^{found} missing, that there was no doubt that the fuel keeper Shri S.A. Gafoor was also responsible for the shortage, that the applicant being supervisory official Incharge of the loco shed could not say that he had no knowledge of the pilferage or loss of coal that the applicant should have conducted physical verification as frequently as possible to ensure the correct position of the stock of materials, that the applicant failed to perform his legitimate duties on the pretext that the fuel keeper alone was responsible for any loss of coal, that, besides, maintenance of fuel it was the prime responsibility of the applicant to account for the stock properly and that the applicant was responsible to extract work from the staff working under his control. That for the negligence or the mistake committed by Shri S.A. Gafoor, fuel keeper, he has been reverted as a senior clerk for a period of 2 years, that during the inquiry it was found that the applicant failed to maintain absolute integrity and devotion to duty, that the applicant was throwing blame on his subordinates, that as per para 48 of the Office Order No.12/1968 the loco shed incharge should take inventory once in a month but it did not restrict or absolve the verification of stocks and coal, ~~at~~ at least, the physical verification to roughly assess the quantity available ⁱⁿ to stock that any prudent man could have made out missing of such huge loss of coal with his vast experience as ^{that of} the applicant. The applicant conducted routine monthly stock checking with the fuel keeper on 1.2.86, that on that day there was shortage of coal to the extent of 12.8 tonnes (18%) which was stated to be negligible and within the permissible ~~percentage~~ of limits, that on 11.2.86 the vigilance cell of the South Central Railway conducted surprise check on the loco shed and found shortage of coal to the extent of 166.19 tonnes (38%) that the vigilance cell conducted the verification of stock of coal in the presence of the applicant and in the presence of

instructions it cannot be said that the Disciplinary Authority was biased towards the applicant. Therefore, this contention of the applicant cannot be accepted. There was no impropriety on the part of the Disciplinary authority in nominating the Inquiry officer even before the Applicant submitted his explanation to the Articles of Charge.

11. The applicant contends that he is a supervisory official incharge of the loco shed, that he is not expected to make a detailed check of the stock of the coal in the loco shed, that as per the rules he was expected to conduct the check of the stock of coal in the locoshed only once a month, and that he had performed his duty of checking the stock of coal on 1.2.86. It is to be seen that even on 1.2.85 there was shortage of coal, to the extent of 12.8 tonnes (18%) and that the shortage was within the permissible limits. Eventhough the shortage was within the permissible limits it was expected of the applicant to ascertain the reasons for the shortage. Merely because the shortage was ^{within} permissible ^{limits} he could not keep quiet. He should have ascertained the reasons for such shortage from the responsible subordinate official. It is not known whether such a course was adopted by the applicant pursuant to his routine check on 1.2.86. Whether he brought this shortage to his official superior is not forthcoming.

12. The applicant in support of his contention that he was not the custodian of the material stocked in the loco shed, relied upon annexure-I. Annexure-I is the copy of the responsibilities and duties of the loco foreman. Paras 4, 5 & 8 of the annexure-I are relevant for our purposes. The said paras read as under:

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8. Our findings:-

Point (a) Applicant is liable to account the shortages.

Point (b) No

Point (c) No

Point (d) As under

- REASONS -

Points (a) and (b)

9. The facts of the case lie within a narrow pass. It is not disputed that the applicant was working as the loco foreman, loco shed, Nandaluru during the year 1985-86. He was working as such from 26.2.85 to 19.3.86. As a loco foreman the applicant was the overhaul incharge of the loco shed. He had subordinates under his control and in particular Shri S.A. Gafoor who was working as Fuel Keeper. On 1.2.86 the applicant conducted the monthly check of the stock of the loco shed. Then it was noticed that there was shortage of coal to an extent of 12.8 tonnes (18%). It is not disputed that on 11.2.86 the vigilance cell attached to S.C. Railway conducted surprise check of the stock of coal in the loco shed, Nandaluru. They conducted the surprise check in the presence of the applicant and Shri S.A. Gafoor, fuel keeper. In this connection the vigilance inspector recorded the statement of the applicant on 3/4.4.86.

10. It is submitted that the disciplinary authority nominated the inquiry officer even before the applicant could submit his explanation to Articles of Charges. It is stated that the Disciplinary Authority was biased. But the respondents stated that in accordance with letter No.E(D&A) 83 RG 6.14 Dt. 29.3.85 instructions have been issued by Railway Board to appoint an inquiry officer simultaneously with the issuance of Articles of Charges to delinquent Railway Servant. When the disciplinary authority acted in accordance with the Board's

fuel keeper. It is further stated that the statement of S.A. Gafoor recorded by the vigilance inspector was confronted to him and was asked to cross-examine Shri S.A. Gafoor. Thus the applicant states that there was illegality in the inquiry. If in case the inquiry officer confronted to him the statement of Sri S.A. Gafoor recorded by the inquiry officer and directed him to cross examine him then nothing prevented him to request the Inquiry Officer record the statement of S.A. Gafoor afresh. Had he made such a request and had the inquiry officer rejected the request of the applicant, then we could have found that there was some illegality in the inquiry. It is not stated specifically whether the applicant had objected to using the statement of S.A. Gafoor recorded by the vigilance inspector. The applicant should have filed a memo before the Inquiry Officer to record the statement of S.A. Gafoor. He has not done so. However it is significant to note that he has not furnished the copy of the explanation given by him on 30.5.90 to the report of the inquiry officer. *We are told that the applicant was represented and*
Advocate.

Even his statement recorded by the vigilance inspector on 3/4.4.86 can be made use of in the disciplinary proceedings. He has not whispered anything ^{as to the statements} recorded by the vigilance inspector on these dates.

Therefore, it does not lie in the mouth of the applicant now to urge that the inquiry officer failed to record the evidence of S.A. Gafoor. From the material placed on record the applicant has cross-examined Shri S.A. Gafoor. The inquiry officer has given sufficient opportunity to the applicant to ~~inquire into the statement of Shri S.A. Gafoor~~ therefore in our opinion the inquiry cannot be vitiated only on that score.

"Para-4:

Seeing that all necessary precautions are taken to ensure that material is available in shed stores for efficient maintenance and expeditious completion of engine undergoing schedule repairs.

Para-5:

All fuel, stores and material in charge and for the correct accounting for same.

Para-8:

Accurate maintenance of registers and safe custody of documents. "

Hence we are of the considered view that the applicant is accountable to explain the shortage noticed by the Vigilance Cell on 11.2.86.

13. The disciplinary proceedings is neither a civil trial nor a criminal trial. The inquiring Authority is a fact finding body. The strict rules of evidence are not applicable to the disciplinary proceedings. The Inquiry Authority has to act fairly and judiciously without violating the principles of the natural justice. Even a confessional statement of ^adelinquent Railway servant is admissible in the disciplinary proceedings. Further, statement of witnesses recorded under 162 of the code of Criminal Procedure ^{are} ~~is~~ admissible in the disciplinary proceedings. Preponderance of probabilities is the guiding factor in the disciplinary proceedings.

14. With this background we have to ascertain whether there was any infirmity or illegality in the conduct of the inquiry against the applicant. It is stated that the inquiring authority had not properly recorded the statement of S.A. Gafoor,

Dt.1.10.90/23.10.90 imposing the punishment of dismissal has been passed by the Divisional Railway Manager, S.C. Railway, Guntakal. The order is at Annexure A-9. On perusal of the above proceedings we find no illegality in either initiating the disciplinary proceedings or in awarding punishment to the applicant. There is no substance in the contention of the applicant that the authority who initiated the disciplinary proceedings against him had no authority to do so. Even a competent authority who is empowered to impose any of the major penalty is entitled to initiate the disciplinary proceedings. As such the authority for all purposes of institution of disciplinary proceedings and issue of charge memorandum for imposition of major penalty is the authority competent to impose any of the major penalties. Admittedly, the applicant was under the control of South Central Railway at the time when the shortage of coal was noticed in loco shed, Nandaluru in February, 1986.

The learned counsel in support of contentions raised ⁱⁿ on OA relied on the decision of the Andhra Pradesh High Court reported in AIR 1970 at page-14. ^{In page 14,} ~~Until~~ no decision has been commenced at page-14. At page-13 the case of S. Jaferuklah Vs Abdul Aziz and others has been reported. In the said case the Hon'ble High Court considered Sec.197 of the Code of Criminal Procedure and conclusion of 65 of the ^{Wakfs} ~~benefit~~ act.

The learned counsel relied on the decision reported in 1990 (7) SLR page 718 (G.A. Sivakumar Vs Union of India) of the said judgement. The observations made in the said para do not in any way come to the aid of the applicant. The applicant does not dispute the shortage of coal noticed by the vigilance cell of SC Railway on 11.2.86 at Nandaluru Locoshed. It is his specific case that he, being a supervisory in charge of the locoshed, is not expected to conduct daily check and it was the responsibility and duty of the fuel keeper to keep him

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The applicant has questioned the competency of the disciplinary authority to initiate disciplinary proceedings. The (Annexure-III) is the copy of the record of charges served on the applicant. The DRM (Maintenance) has issued the Articles of Charges. DRM is the respondent No.4 in this application. The applicant contends that the respondent No.4 is not competent to initiate disciplinary proceedings against him and to impose the major penalty of compulsory retirement. It is stated that as per Rule 2(c) of the Railway Servants (Disciplinary & Appeal) Rules, 1968, the disciplinary authority in relation to rule 9, in case, of a non-gazetted Railway Servant is competent to impose any penalties specified in rule 6. It is his case that major penalties- Removal or compulsory retirement from service can be imposed only by the appointing authority and that the R-4 is not the "appointing authority" within the meaning of Rule 2 (A) of the said rules.

Rules 2(iii), 6, & 9 of the Railway Servants (Discipline & Appeal) Rules 1968 are relevant to consider the contention of the applicant. Under rule 2 (iii) in relation to Rule-9 in the case of any non-gazetted railway servant an authority competent to impose any major penalties specified in Rule 6 is the disciplinary authority.

Under the said rule disciplinary authority for various categories and imposition of certain punishments^{are} enumerated in Rule 6 are explained.

On 11.2.86 the applicant was working as Loco foreman at Loco-shed, Nandaluru. He was holding a Group 'C' post in the railway administration (Annexure-3) to the OA is the articles of charges served on the applicant. It has been signed by Divisional Mechanical Engineer, Loco. Guntakal. The order



to the inquiry officer this Tribunal would have been in a position to consider whether such a contention was tenable or not. In the absence of the explanation of the applicant to the report of the inquiry officer it is not fair on the part of this Tribunal to hold any opinion which may come to the conclusion that the inquiry was conducted against the principles of natural justice.

The learned counsel also relied upon the decision in the case of M.A. Narayana Setty Vs Divisional Manager & Disciplinary Authority, LIC of India, Cuddapah and others reported in 1991 (8) SLR Page 682. He relied upon the observations made by the Honourable High Court at paras 12 to 16. We have keenly followed observations made in those paras. In the instance case it is not specifically demonstrated by the applicant how the inquiry officer was biased or prejudged the issue. The applicant has not placed any material on record to show that the disciplinary proceedings conducted by the inquiry officer was against the principles of natural justice. The charge levelled against the applicant is only to the ^{effect} ~~fact~~ that he failed to check the stock of coal at Locoshed Nandaluru. In our humble opinion the decision in this case is not clearly applicable to the facts of the circumstances of the case.

The defence of the accused is that he is not responsible for the day to day check of the stock of the coal in the loco-shed and that Shri S.A. Gafoor is responsible for the same. The applicant being a supervisory officer cannot shirk his responsibility. Further the vigilance cell of the South Central Railway conducted the check of the stock of the coal in the loco shed in the presence of the applicant. Further, during the course

informed of the shortages, if any, noticed during the month. That means to say his contention is that it was the duty of the fuel keeper to keep him informed of the shortages in the coal between 2.2.86 and 10.2.86. Therefore in our humble way the principles enunciated in the said decision do not apply to the facts and circumstances of this case.

The learned counsel for the applicant relied on the decision of the Kerala High Court in Kudalanch Bank Ltd Vs M.M. Lessi. This is reported in 1993 in the Indian Factories journal page-479. In that case Hon'ble High Court considered the various kinds of retrenchment under section 2 (oo) of the Industrial disputes act. We feel the said citation has no application to the facts and circumstances of the case.

The learned counsel for the applicant relied upon the decision in the case of Anand G. Joshi Vs Maharashtra State Financial Corporation, reported in 1991 (8) SLR at page-14 (Bombay) to contend that the inquiry officer had not properly recorded the evidence of the witnesses examined on behalf of the disciplinary authority. It is the case that witnesses were confronted ~~with~~ ^{with} the earlier statement that he was asked to cross examine this. It is not possible to state whether such a procedure was adopted by the inquiry officer during the inquiry. As may be observed that the applicant was furnished with a copy of the report of the inquiry officer, he has furnished his explanation to the ✓ ~~-----, he has not furnished the reply~~ furnished by him to the inquiry officer. Had the applicant furnished the copy of the reply to the

retirement from service. On the other hand we feel that the authorities took a lenient view and permitted certain pensionary benefits to the applicant even though his act has resulted in substantial pecuniary loss to the Railway Administration.

In the case of Chaturvedi Vs Union of India, (reported in AIR 96 SC 484) the Honourable Supreme Court held that it is not for the tribunal to interfere with the orders of punishment. Further it observed that it is entirely with the ^{discipline of the} disciplinary authority to impose/condign punishment for the delinquent official for an act of proved mis-conduct. In this case the applicant had not exercised proper care and failed to verify the issuance of the stock register and the ^{coal} ~~coal~~ stocked in loco shed, Nandaluru. Hence we are not persuaded to hold the punishment imposed on the applicant ~~are~~ disproportionate to the charge levelled against the applicant.

In the result we find no merit in this O.A. The same is liable to be dismissed. Accordingly the O.A. is dismissed. No order ^{as} to costs.

प्रमाणित प्रति
FOR THE DEPUTY COMPTROLLER
11/11/92
न्यायाधीश
COURT OFFICER
केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
हैदराबाद बेंच
HYDERABAD BENCH

केस नम्बर	MA-1083/93
CASE NUMBER	MA-1083/93
नियम का तारीख	3/1/
Due of Judgement	3/1/
प्रत तय्यार किया गया दिन	12/1/92
Copy Made Ready on	12/1/92
अनुमान अधिकारी (नव नियम) Section Officer (J)	

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of preliminary inquiry the applicant admitted the lapse on his part. In these circumstances it is not permissible on the part of the applicant to now turn back and say that he is not at all responsible for the shortage noticed by the vigilance cell.

We find no material in the explanation of the applicant that the inquiry conducted on him is against the principles of natural justice and that the inquiry officer has prejudged the issue.

Considering all these factors we are of the opinion that there are no substantial points in the application, ^{to question} the manner and conduct of the disciplinary proceedings against him. The applicant is responsible for the loss or shortage of coal (23%) noticed by the vigilance cell at loco shed Nandaluru on 11.12.86

Point (C):-

The applicant during the course of submission of this OA submitted that the punishment imposed on him is disproportionate to the charges levelled against him. It is to be noted that on 11.2.86 166.19 tonnes of coal (38%) was not available in the stock. Thus there was huge stock of coal ^{was found} missing from the loco-shed. The applicant had periodically checked the stock of coal in the loco shed on 1.12.86. Between 2.12.86 to 10.12.86 such huge amount of coal was found missing. The applicant failed to exercise his supervisory control in properly verifying the issuance register and stock Register. ^{daily} The applicant ^{exhibited} ~~exhibited~~ negligence in the performance of duties. As a supervisory officer he cannot ^{or shift} ~~shirk~~ his responsibility and put the blame on S.A. Gafoor, the fuel keeper. ~~we find no illegality or infirmity in the decision of the~~ disciplinary authority imposing a punishment of compulsory

CAT/Hyd. Reul

Encl. no. CAT/Hyd/Jul/SC/45/97

Dt: 11-8-97

The order of the Supreme Court
dt. 9-5-97 in SLP No. 10725 of 1997 is
communicated to the concerned therein.

// T. M. S. P. //

D. L. S.

S. M. S.

To

All the addressees
to whom the order
dt. 3-1-1997 in
OA 1083/93 was
sent