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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.591 of 1995

DATE OF JUDGMENT: 23 JUNE, 1998

BETWEEN:

SHRI B.GOVARDHAN RAO

.. APPLICANT

AND

1. The Chief Operating Manager,
South Central Railway,
Secunderabad,
2. The Addl. Divisional Railway Manager-I,
S.C.Railway, Sanchalan Bhavan,
Secunderabad,
S.C.Railway, Sanchalan Bhavan,
Secunderabad.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr. J.VENUGOPALA RAO

COUNSEL FOR THE RESPONDENTS: Mr.V.RAJESWAR RAO, Addl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

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

JUDGMENT

ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.J.Venugopala Rao, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned standing counsel for the respondents. Mr.Subba Rao, Senior DSO, S.C.Railway was present on behalf of the respondents.

2. The applicant in this OA while working as Station Superintendent in the grade of Rs.2000-3200 at Rechni Road

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Railway Station was issued with a major penalty charge sheet under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968 on 29.3.1994 (Annexure II at page 24 to the OA). The applicant submitted representation on 3.4.94 (Annexure III at page 28 to the OA). However, that major penalty charge sheet dated 29.3.94 was withdrawn without ~~the disciplinary authority to issue~~ a fresh charge sheet on the same allegation vide letter No.C/T5/G/B5/464/RECH/93-94 dated 22.4.94 (Annexure IV at ~~the~~ respondents that the rules were quoted incorrectly and inadvertently and hence that charge sheet was withdrawn. A fresh charge memo bearing No.C/T5/G/B5/464/RECH/93-94 dated 22.4.94 (Annexure V at page 32 to the OA) was issued under the same Railway Servants (D&A) Rules for major penalty. The article of charges reads as below:-

"Shri B.Govardhan Rao, SS/rech, while on duty as SS at RECH Station on 7.3.94 failed to ensure proper clamping and padlocking of point No.12, while admitting Train No. Down white field goods on Goods Loop Line No.2, as a result of which 5 BCN loaded wagons derailed. He thus violated Sr.3.38 (8) 3(iii) of 1978."

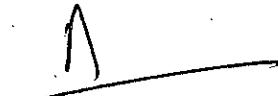
3. The applicant submitted his representation. An inquiry was conducted and the Inquiry Officer in his ~~had~~ inquiry report held that the charges framed against the applicant stand proved. The inquiry report is at Annexure VI at pages 37 to 48 to the OA. The applicant was given a copy of the Inquiry Report to make any representation in writing to the disciplinary authority. Accoringly, the

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applicant filed a representation dated 21.5.94 (Annexure IX at page 50 to the OA) stating that he is not responsible for the charges and that he had not violated any rule. The Disciplinary Authority viz, R-3 herein had held in the order No.C/T5/G/B5/464/RECH/93-94 dated 1.6.94 (Annexure X at page 54 to the OA) that the applicant failed to follow the Subsidiary Rules under Rule NO.38.3(8) 3(ii) (iii) provided in the "General Rules for Indian Railways with Railway" as he, as a Station Superintendent on duty failed to follow the above rules in that he failed to ensure the correct setting of points. He agreed with the report of the Inquiry Officer and removed him from service with immediate effect in exercise of the powers conferred on him under the Railway Servants (D&A) Rules. Against that order of removal, the applicant filed an appeal to R-2 by his appeal dated 6.6.94 (Annexure XI at page 58 to the OA). That appeal was disposed of by the order No.C/T5/G/B5/464/RECH/93-94 dated 7.7.94 (Annexure XII at page 61 to the OA) by setting aside the order of removal from service imposed by R-3 and reducing the punishment to that of reinstatement and reduction to lower grade of Rs.1400-2300 (RSRP) (from the grade of Rs.2000-3200 which the applicant was holding at the time of removal from service) on a pay of Rs.1400/- for a period of three years with cumulative effect. It is further ordered that the intervening period from the date of removal till the date of reinstatement stands treated as leave without pay. Against that order of the appellate authority, the applicant filed a revision petition to R-1 under Rule 25 of the Railway Servants (D&A) Rules, 1968 by his petition



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dated 22.8.94 (Annexure XIII at page 64 to the OA). That revision petition was disposed of by R-1 by the order No.P.94/SC/BGR/1875 dated 29.11.1994 (Annexure XIV at page 70 to the OA) by modifying the penalty of reduction to the post of Assistnat Station Master in the scale of pay of Rs.1400-2300 on a pay of Rs.1400/- for a period of three years recurring to that of non-recurring.

4. This OA is filed for setting aside the punishment orders by holding them as illegal, arbitrary and for a consequential direction to the respondents to acquit him from the above said charges and restore his original scale of pay of Rs.2000-3200 with consequential monetary and service benefits.

5. The short facts of this case are as follows:-

The applicant while working as Station Superintendent at Rechni Road Railway Station got orders on 7.3.94 for receiving 1 Dn. Goods Train "White Field Goods" on Goods loop line No.2 via cross over point number 12 of that Station. The cross over point NO.12 was a motor operated point. The cross over point was not setting correctly due to some defects and indication was ^{not} available on Control Panel Board. The applicant permitted one Mr.Mohd Ismail Khan, ASM to set the point correctly and padlock it to avoid delay to the number of trains waiting both in up and down directions. It is stated that the applicant got the positive feed back from the ASM as having set clamped and padlocked the point ~~and~~ and hence he allowed the goods train to pass over on the said point NO.12. The

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first 11 wagons had passed safely over point but the three wagons namely 12, 13 and 14 had derailed. The respondents had held that the applicant failed to discharge his duties as Station Superintendent by ensuring the correct clamping of the point No.12 thereby causing derailment of the goods train over the point No.12. As per the charge memo the applicant was held responsible for failure of not following the rule 3.38(8)3(iii) of 1978. He was punished as indicated above following the DAR procedure.

6. The applicant submits that he had carried out his duties properly. There was heavy rush of trains from both the up and down sides. The said point No.12 was giving trouble frequently earlier also which he had informed to the control staff. He even went to the extent of saying that no train should be received on the Goods Loop Line No.2 passing over from Point No.12 but he was asked to receive the train on Loop Line No.2 by control staff inspite of his reporting the fact that it is not safe to take trains over point No.12 which was frequently going defective. As there was rush of trains on both the sides, he did not want to detain any train and hence he obeyed the orders of the higher officers. To ensure that the points are properly set, clamped and padlocked, he had nominated Mr. Mohd Ismail Khan for doing the job. The said ASM had completed his job and informed him so. The applicant could not personally go to clamp points as there was shortage of staff and he himself was performing the duties beyond ~~scope~~.

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the normal duty hours. As there were frequent calls from the control he had to take recourse to send Mr. Mohd Ismail Khan for clamping ^{and} the padlock ^{of} the points. Thus he ~~supposedly~~ had discharged his duties without any lapse.

7. The applicant further submits that he had completed 25 years of service in various capacities without having been responsible for any accident. Thus he had accident free service. He was also ~~a~~ recipient of appreciation certificates. By the penalty subsequently imposed on him by R-1, he is not only losing monetarily but also superseded by his juniors and there is every likelihood of being superseded by the other juniors also. Hence he submits that taking into account, the over all picture of his service, the punishment meted out to him has to be set-aside and he has to be acquitted of the charges.

8. Rule 3.69 of the said rules gives the instructions in regard to the duties of the Station Master when an approach stop signal is defective. It is a very general in nature and may not be necessary to consider as the charge is that the applicant failed to ensure that the point No.12 has not been correctly set. Rule 5.1 of the General Rules is also of the general nature indicating the responsibility of the Station Master for working. It stipulates that the Station Master shall be responsible for efficient discharge of his duties devolving upon the staff employees permanently or temporarily under his orders. Hence we asked the learned counsel for the respondents to indicate the rules which are to be followed by the Station Master when the motor operated points fail. The above question

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was posed to see how the rules stand and how they are to be read.

9. As the above question involves technicality of reception of trains over defective motor operated points, we permitted Shri Subba Rao, DSO to depose before us in this connection. Accordingly, shri Subba Rao deposed before us and submitted that Rule 3.38.8.3.(iii) has to be necessarily followed when motor operated points fail. As per that rule, the Station Master on duty shall be personally responsible to ensure the correct setting of the points and also ensure that the points are clamped, padlocked and the level collars are put on the relevant point levers. This rule reads as below:-

personnally be responsible to ensure the correct setting of points. He must also ensure that the points are clamped, padlocked and the lever collars are put on the relevant point levers and must retain the keys of the padlocks in his personal custody before authorising any movements over the affected points. The receipt/despatch of trains shall be arranged in accordance with the rules."

10. In this case, the point NO.12 had failed. It is a motor oporated point. But the point can be set in the required position by using crank handle. Once the point has been set, clamp and padlocked, there will be indication

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of the panel showing normal or reverse position of the ~~set~~ points as ~~required~~. If that indication has come then the signals can be taken off. But setting of points, clamping and padlocking is the personal responsibility of the Station Master as per the rule referred to above and it cannot be delegated to any body else. As the applicant had delegated this work to the other ASM Mr. Mohd. Ismail Khan, he failed to discharge his duties satisfactorily. We asked him the rule under which the applicant can take off signal after 'N' or 'R' indication of the points are available. He referred to the next rule (Rule 3.38.8.3.(iv) which reads as below:

"At Station where crank handles provided to operate the point machines manually are interlocked with signals, authority to pass the signal governing the movement over the points, which are set by crank handle need not be issued if the signal can be taken 'off' and proper 'N' or 'R' indication, showing that the points have been properly set and locked in the normal or reverse position, is available in the cabin. The points should, however, be clamped and padlocked by the staff deputed to set them by means of crank handle, before the crank handle is restored back to the electrical lock and the relevant signals are taken 'OFF'."

11. As the applicant depended on the version of the ASM deputed by him to set the clamp and padlock point No.12, he failed to discharge his duties and hence he was issued the charge sheet, submits the Railway official.

12. The learned counsel for the applicant relying on para 3 (v) under the same rule submits that the Station



Master can depute the staff for manual operation of the defective motor operated points by crank handles. The applicant followed that rule and hence he is not responsible for the accident. The rule quoted by the learned counsel for the applicant reads as below:-

"In case of manual operation of defective motor operated points by crank handles, which are not interlocked with signals for passage of traffic, the trains may be received on signals provided."

(a) a transporation staff not lower in rank than an Assistant Station Master is deputed to operate the defective motor operated points which is to be clamped and padlocked.

(b) private number is exchanged between the Transportation staff at the points and the Assistant Station Master/Switchman taking "OFF" the signals to ensure the position of the points and safe custody of the crank handle with the former, and

(c) correct setting of the defective points, has been proved in the electrical circuit after mannual operation."

13. We have asked the officer present from the Railways as to why the applicant was taken up when he had followed the rules quoted by the learned counsel for the applicant extracted above. The officer submitted that the said rule quoted by the applicant is to be followed when the station is a non inter-lock^{ed} station. At that time the



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points and signals are not inter locked. The above situation arises when there is extensive work to be performed for remodelling of stations etc. During that period, if ASM is burdened with the duty of clamping or padlocking the points, it ^{may lead to} involves complete collapse of the system and hence he can be assisted by his subordinates. During that period, signals are not taken off as trains are piloted. Whereas in the present case when the defective points have been clamped and padlocked, if the indication of the position of points are available, the train can be taken on signals. If the trains can be taken on signals then the Rule 3.38.8.3(iii) has to be followed. The applicant failed to discharge his duties. Hence he has been issued with the charge sheet and punished as stated above.

14. We find a reasonable answer from the officer present in the Tribunal for issuing the charge sheet to the applicant for not performing his duties in accordance with the rules and awarding punishment on that basis. As we are satisfied that the applicant was responsible for the derailment of the White Field Goods Train on 7.3.94 because he disregarded the rules, we do not see any reasons to interfere with the punishment meted out to the applicant.

15. The learned counsel for the applicant relied on the Sub Rule 3.51 and 7(a) of the said rules. We have examined the rule position of Rules 3.51 and 7(a) on which the applicant relied ^{before} to state that the applicant is not responsible for derailment as he had performed his duties in accordance with the rules. But these rules are not applicable in this case. There is no other relevant rules

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quoted by the applicant.

16. The learned counsel for the applicant submits that the applicant was performing his duties efficiently for the past 25 years and his services were accident free. He had been punished severely in the present case. That punishment has to be set-aside as he was working on that day under the conditions of severe pressure due to the number of trains on both the lines. He pleads that the punishment had put him to a irreparable loss thereby he lost heavily monetarily and also in his further promotional careers.

17. The above submission is considered by us. Removal of the applicant had been watered down by the appellate authority and later by the reviewing authority. The watering down of the punishment may be due to the fact that the applicant was performing his duties earlier satisfactorily. This fact has also been noted in the orders of R-1 while reducing his punishment to the lower grade without cumulative effect. Hence we feel that submission of the applicant that some more relief can be given to him so that monetary loss can be brought down and promotion prospects can be improved to a little bit, is reasonable. The applicant may submit a mercy petition to the General Manager, if so advised, for giving some more relief to him indicating the exact relief he prays for other than setting aside the punishment. If such a mercy petition is received, the General Manager can, under his powers, grant the relief, if any to the extent possible on the basis of the reasons indicated in the mercy ~~xxxxxxxxxx~~

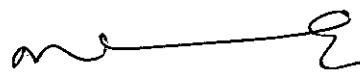


petition.

18. In the result, the OA is dismissed subject to the observations made in para 17 above. No order as to costs.


(B.S. JAI PARAMESHWAR)

23/6/98


(R. RANGARAJAN)

DATED: 23rd JUNE, 1998


DR

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Copy to:

Secunderabad.

- 2. The Addl.Divisional Railway Manager,-I,
South Central Railway, Sanchalan Bhavan, Secunderabad.
- 3. The Senior Divisional Operating Manager, South Central
Railway, Sanchalan Bhavan, Secunderabad.
- 4. One copy to Mr.J.Venugopala Rao, Advocate,CAT,Hyderabad.
- 5. One copy to D.R(A),CAT,Hyderabad.
- 7. One duplicate copy.

15. All the Reporters as per CAT List.

16. one copy to D.R(G) CAT, Hyd.

YLKR

Reported Case
26/7/98

II COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (3)

DATED: 23/6/98

ORDER/JUDGMENT

M.A/R.A/C.P.NO.

in
D.A. NO. 591/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

Two Sets of copies
Not
N.V.

Central Administrative Tribunal
HYDERABAD BENCH

2 JUL 1998
N.V.