

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.996/95

dt.28-4-98

Between

B. Niranjan

: applicant

and

1. Sr. Divnl. Mech. Engr.(Power)
SC Rly., Canchalan Bhavan
Secunderabad

2. Addl. Rly. Manager(BG)
SC Rly. Samchalan Bhavan
Secunderabad

3. Divnl. Rly. Manager(BG)
SC Rly. Sanchalana Bhavan
Secunderabad

4. Chief Optg. Manager
SC Rly., Sanchalan Bhavan
Secunderabad

5. GM, SC Rly.
Rail Nilayam
Secunderabad

: Respondents

Counsel for the applicant

: J. Venugopal Rao
Advocate

Counsel for the respondents

: V. Bhimanna
SC for Rly.

Coram

Hon. Mr. R. Rangarajan, Member(Admn.)

Hon. Mr. B.S. Jai Parameshwar, Member(J)

Jax

Order

Oral order (per Hon. Mr. B.S. Jai Parameshwar, Member(Judl))

None for the applicant. The applicant was also absent when the OA was called for hearing. Heard Sri V. Bhimanna learned counsel for the respondents.

1. Since the OA was filed in the year 1995 we are deciding this OA on the basis of the material available in accordance with Rule 15(b) of the CAT(Procedure)rules 1987.

2. The applicant was working as Goods Driver under the Railway administration. On 12-4-1990 he was assigned to work on Wadi goods train (down) at 2205 hrs. He started the train at 1000 hours after negotiating with upgradient at KM 244 and entered into down gradient ^esanction. Therefore, he started controlling the train. At the said point of time, the power of the break was only 65%. Due to the said reason purely for the technical defects in the brakes, the train ^{had} ~~was~~ stopped at Muthal section where there were no live wires and in order to see that the Dakshin express and another train should not be detained, he made an attempt to relieve the wagon brakes. Thus the train automatically rolled and passed the starting signal of Mandamarri station. The applicant submits that he took every steps to prevent ^{the} accident by alerting Station staff for connecting the main line.

3. The Driver while entering MMZ station had realised that the train could not be controlled since required ^{quantity} ~~number~~ of vacuum could not be created. The line was made through instead of setting through sand hump. In view of the above

rolling down of the train, Assistant officer enquiry was held and the findings were submitted on 2-11-1990. On the basis of submission of the Primary enquiry, the applicant was charge sheeted for major penalty under Rule 9 of Railway Servants (D&A) Rules 1968 :

"Article

Serious misconduct and careless working in that Sri B. Niranjan Driver/kzj while working Dn.WD goods with As loco passed signals at danger at MMZ station on 3-4-90. Thus he violated Rule 3.81(1)(1a) and 2 of G&SR 1976 and Railway Servants Conduct Rule No.3.1(1)(ii) and (iii) of 1966."

4. The applicant submitted his defence statement by letter dated nil (Page 10 to the OA). An enquiry was conducted and on the basis of the enquiry the Disciplinary authority viz. the Respondent-1 removed the applicant from service by impugned order No. C.T5/G/B5/1/MMZ/90-91 dt.6-7-92 for the reasons stated in that order. Against that removal order the applicant filed an appeal to Respondent-2 by his appeal dated 9-9-92 (Page 14 to the OA). That appeal was considered and the removal from service was ^{modified} converted as a compulsory retirement by Respondent-2 by letter dt.9-9-92 vide No.C:T5/G/B5/1/MMZ/90-91. The applicant filed a review petition to Respondent-4 against the order of the appellate authority which was rejected by order No.P.94/Sc/Bnd/1645 dt.29-3-93 (page 19 to the OA).
5. This OA is filed for setting aside the order of the Disciplinary authority dt.6-7-92, the orders of the Appellate authority dt.9-9-92 and orders of Reviewing authority dt.29.3.93 by holding them as illegal, arbitrary, and unconstitutional and for a consequential direction to reinstate the applicant into duty as Driver by paying him salary and arrears due to him.

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6. It is stated in the reply that the applicant while controlling the train to test the break power and as well as to stop at engineering speed restriction ahead, had come to stop dead at pp.20hrs. at neutral section at Kms.245/18 between BPA-MMZ. In order to clear the neutral section the driver instructed the assistant to release the train. The train having released started rolling at 1.25 hrs towards MMZ due to steep down gradient towards MMZ home signal at MMZ was taken off to caution aspect for the train to be admitted on the loopline. On clearing the neutral section though the DJ was open within that short section the MR pressure could not be built up in time for the vacuum to get created in the formation. Thereby he could not control the train and ran through MMZ on loopline at 1.35 hrs passing in section at IBH distance MMA-MCI. He had realised that the train could not be controlled since required amount of vacuum could not be created. Cabin A & B Switchman and ASM alerted section ahead and line set to sand hump. Sand hump is made through.

7. From the above statement it is evident that the applicant drove his train and while doing so he lost control of the train as stated in the reply statement. The driver has to be very careful while working at train as otherwise it will cause accident which will be detrimental to the functioning of the railways. Such improper operation on the part of the driver may cause human loss or considerable damage to the Railway property both rolling staff and the permanent assets. Hence, such poor working by the Driver cannot be treated lightly. Hence, Assistant Officers found him responsible for the accident in running through station MMZ for not controlling the train properly when he stopped at neutral section earlier. On the basis of that enquiry a proper chargesheet was issued

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and the applicant was given all assistance to adhere to the principles of natural justice to explain his case. The enquiry^{officer} found the applicant guilty. It is also stated in the reply that the delinquent accepted the charges during the enquiry in his answer to question No.7. None of these statements have been controverted by the applicant by filing a rejoinder. Hence it has to be held that the statement of the respondents are unquestionable.

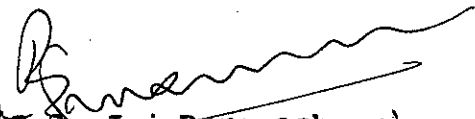
8. Having committed a serious mistake in the control of the said goods train, the applicant cannot go without any punishment. On the basis of the enquiry the respondents had removed him from service. But the Appellate authority taking humanitarian view as the applicant was to retire shortly, reduced the punishment of removal to that of compulsory retirement. Thus the applicant is secured of enough emoluments for his retired life. No technical or any other irregularities have been pointed out in this OA. We have stated the grounds given in his application. The grounds taken are verbose and does not convey any failure on the part of the respondents to impose punishment of compulsory retirement on the applicant. The only ground that may be considered is that Respondent-4 had passed the orders without application of mind. This is a vague statement and has not been supported by any proof. Hence, this ground has to be rejected.


9. Consider^{ing} the view facts and aspects we come to the conclusion that the charge sheet was issued by an appropriate authority, the inquiry was complete as per rules and the punishment was given to him by competent authority in accordance

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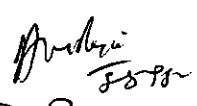
with rules. Hence we find no reason to interfere with the impugned orders.

10. Hence, the OA is dismissed. No costs.


(B.S. Jai Parameshwar)
Member(Judl.)
28/4/98


(R. Rangarajan)
Member (Admn.)

Dated : April 28, 98
Dictated in Open Court


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Copy to:

1. Senior Divisional Mech. Engineer, (Power),
South Central Railway, Sanchalan Bhavan,
Secunderabad.
2. Addl. Rly. Manager, (BG), South Central Railway,
Sanchalan Bhavan, Secunderabad.
3. Divisional Railway Manager, (BG), South Central Railway,
Sanchalan Bhavan, Secunderabad.
4. Chief Optg. Manager, South Central Railway,
Sanchalan Bhavan, Secunderabad.
5. General Manager, South Central Railway,
Railnilayam, Secunderabad.
6. One copy to Mr. J. Venugopal Rao, Advocate, CAT, Hyderabad.
7. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
8. One copy to HBSJP, M(J), CAT, Hyderabad.
9. One copy to D.R(A), CAT, Hyderabad.
10. One duplicate copy.

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27/5/98

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II COURT

TYPED BY
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED:

28/4/98

ORDER/JUDGMENT

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

in

O.A.NO.

996/95

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

