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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD ~~XXXX~~

OA.No.308/96.

Date of order:13-3-96.

Between:-

N.Satyanarayana

...

Applicant.

And

1. Union of India, rep.by General
Manager, South Central Railways, Rail Nilayam,
Secunderabad.
2. Chief Operating Manager, South Central Railways,
Rail Nilayam, Secunderabad.
3. Additional Divisional Railway Manager-I,
Broad Gauge, South Central Railways,
Opp: to Rail Nilayam, Sanchalan Bhavan,
Secunderabad-500 371.
4. Divisional Mechanical Engineer(Power),
Broad, Gauge, South Central Railways, Sanchalan
Bhavan, Secunderabad-500 371.

...

Respondents.

Counsel for the Applicant: Mr.G.Ramachandra Rao

Counsel for the Respondents: Mr.D.F.Paul, SC for Rlys.

CORAM:

HON'BLE MR.JUSTICE M.G.CHOUDHARY, VICE CHAIRMAN

HON'BLE SHRI H.RAJENDRA PRASAD, MEMBER(A)

JUDGEMENT

Dt: 13.3.96

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE CHAIRMAN)

Heard Shri G.Ramachandra Rao, learned counsel for the applicant at length and Shri D.F.Paul, learned standing counsel for the Railways.

2. A disciplinary inquiry was held against the applicant. On conclusion of the inquiry, disciplinary authority imposed a penalty of removal from service. However, the reviewing authority quashed that order and directed a denovo inquiry to be held. In pursuance of the directions, a fresh inquiry was held. Applicant participated at that inquiry. He was represented by a defence counsel Shri L.V.Ramana Rao. Witnesses on behalf of prosecution as well as the applicant in defence were examined. ✓ recorded. Statement of the applicant was also recorded. ✓ Inquiry Officer held ^{the} that articles of charges proved. Charge was for violation of GR 3.81 of General Rules for Indian Railways (1976) of S.C.Railway published in 1990. Disciplinary authority accepted the findings and in the memo issued by him on 5.6.95 he has stated that he had agreed with the findings after careful consideration of the inquiry report. ✓ He, therefore, ^{once again} again passed order of removal from service with immediate effect on 5.6.95 vide aforesaid memo.

3. Applicant carried an appeal to the Divisional Railway Manager. Said authority confirmed findings

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recorded by the Inquiry Officer and accepted by the Disciplinary Authority but took a lenient view on the quantum of punishment and modified the punishment of removal from service to that of compulsory retirement. Said order was passed on 21.9.95.

4. Applicant preferred a revision application under rule 25 of Railway Servants (Discipline & Appeal) Rules, 1968. Revising authority after briefly referring to the contentions of the applicant did not find it necessary to revise appellate order and confirmed the same by order dt.23.1.96. All these orders are impugned in this OA. Applicant prays that after setting aside these orders, he may be directed to be reinstated in service with benefit of continuity of service and other benefits.

5. Two points are mainly urged by the learned counsel for the applicant to contend that the impugned orders are bad in law. Firstly he submits that one Mr.A.John Paul, Goods Guard was examined as witness in defence by the applicant but his evidence has not been discussed by the Inquiry Officer and its impact, therefore, has not been considered. Likewise, applicant's defence statement was not duly considered. Secondly, learned counsel has urged that ^{the} derailment of the train was not due to any default on the part of the applicant but it was an incident of an accident due to

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✓ inadequate ^{break} power and this aspect has not been duly considered.

6. Quantum of evidence is essentially matter for the Inquiry Officer to deal with. Complete inquiry report (of the denovo inquiry) is produced before us. That shows that the officer had taken into consideration evidence of five witnesses, 3 of whom were produced by the prosecution and 2 were produced by the applicant. Inquiry Officer had also recorded statement of the applicant in question-answer form. It cannot, therefore, be held that simply because it is alleged that evidence of Mr.A.John Paul is not discussed that the findings based on other evidence and material are vitiated. Moreover, such a grievance has to be made ^{before} by the appellate authority. From the appeal memo, we do not find such a grievance having been raised. Even in the revision application, such a contention was not raised. It is too late in the ^{day} ~~date~~ to raise such a contention. Learned counsel submitted that appeal and revision were not filed by a lawyer and the applicant might ^{not} have, therefore, urged that contention. This ^{submission} ~~contention~~ does not impress us. It is worthy ^{of} note that defence counsel had represented the applicant in the inquiry and such an important grievance even without legal advice could have been ordinarily projected ^{in appeal and revision}.

7. It is well settled that Tribunal does not exercise powers of an appellate authority in a

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disciplinary proceeding and cannot reappreciate the evidence and arrive at a conclusion different from drawn by the authorities at the enquiry. We are satisfied from the record that there is no illegality which vitiates the inquiry and findings recorded cannot be held as irrational or such that a reasonable person could not arrive at.

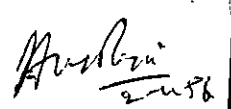
8. As far as quantum of punishment is concerned, it is not open to the Tribunal to interfere with it unless entire inquiry is set-aside. That apart, the appellate authority has already shown leniency and taken a reasonable view and has modified the penalty of removal from service to that of compulsory retirement. That, therefore, is in the interest of the applicant rather than to his detriment once guilt of the applicant which has been held proved and that cannot be interfered with.

9. Consequently we see no good ground to admit this OA and it is accordingly dismissed. No costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMN.)


(M.G. CHAUDHARI)
VICE CHAIRMAN

DATED: 13th March, 1996
Open court dictation


2-4-96
Dr 07

vsn

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Copy to:-

1. General Manager, South Central Railways,
Union of India, Rail Nilayam, Secunderabad.
2. Chief Operating Manager, South Central Railways,
Rail Nilayam, Secunderabad.
3. Additional Divisional Railway Manager-I,
Broad Gauge, South Central Railways,
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4. Divisional Mechanical Engineer(Power),
Broad Gauge, South Central Railways, Sanchalan,
Bhavan, Secunderabad-500 371.
5. One copy to Mr. G. Ramachandra Rao, Advocate,
CAT, Hyderabad Bench, Hyd.
6. One copy to Mr. D. F. Paul, SC for Rlys, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

Justice H. G. Choudhary
THE HON'BLE MR. JUSTICE V. NEELADRI KAO
VICE CHAIRMAN

AND
H. K. Rajendra Prasad
THE HON'BLE MR. R. KANGARAJAN : M(A)

Dated: 13.3.1996

ORDER/JUDGMENT

M.A/R.A./C.A.No.

in
O.A.No. 308/96

T.A.No.

(w.p.No.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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