

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 146 of 2004

Indore this the 17th day of November, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Girdhari, S/o. Bagdiram, aged 65 years,
Occupation – Retired employee, Western
Railway, R/o. 147, Indranagar, Ratlam MP. Applicant

(By Advocate – Shri K.C. Raikwar)

V e r s u s

Union of India, through :

1. General Manager, Western Railway,
Churchgate, Mumbai.
2. The DRM (Western Railway),
Do Batti, Ratlam, MP.
3. R.M. Wankhede, Divisional Engineer
(South), Western Railway, Ratlam.
4. Senior Divisional Engineer (HQ)
& Appellate Authority, DRM Office,
Western Railway, Ratlam. Respondents

(By Advocate – Shri Y.I. Mehta alongwith Mrs. S.H. Mehta)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has claimed the following main reliefs :

“A) to quash Annexure A-1,

B) to grant benefits which has been forfeited due to compulsory retirement should be allowed to the applicant till his actual superannuation date and,



C) to quash the order of compulsorily retirement and reinstate the applicant with full back wages till his superannuation."

2. The brief facts of the case are that the applicant was working as a Gang Mate. He was issued with a major penalty charge sheet and enquiry was held against him and after the enquiry the penalty of compulsory retirement was passed against him vide order dated 25.7.1997. His appeal was rejected vide order dated 7.9.1999. Thereafter he filed a revision petition which was not decided by the respondents and he approached the Tribunal by filing OA No. 321/2000, whereby the Tribunal vide its order dated 11th November, 2003 has directed the respondents to consider and decide the revision petition of the applicant. In compliance of the orders passed by the Tribunal, the respondents decided the revision petition of the applicant without considering the contentions raised by the applicant. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the applicant was working as a Gang Mate. While working as such he was issued with a charge sheet and after departmental enquiry he was compulsorily retired from service. His appeal was rejected and he filed a revision petition which was not decided by the respondents. He filed OA No. 321/2000 which was decided by the Tribunal vide order dated 11.11.2003 directing the respondents to decide the revision petition of the applicant within a period of three months by passing a speaking, reasoned and detailed order. The respondents have not considered the contentions raised by the applicant in the revision petition and the impugned order dated 15.1.2004 (Annexure A-1) has been passed by the reviewing authority. This order is not a speaking order and it is also not passed in compliance with the order of the Tribunal. The points raised by the applicant in the revision petition



have not been considered by the reviewing authority. Hence, the OA deserves to be allowed.

5. In reply the learned counsel for the respondents argued that the revision petition of the applicant had been decided by the authority concerned after giving due consideration to the contentions raised by the applicant and this order is perfectly a speaking order. The work of the applicant being satisfactory does not mean that he cannot be guilty in the departmental enquiry and accident. The revisional authority has applied its mind to the material points raised by the applicant and it is not necessary to give detailed reasons parawise on all points raised by him. The accusation against the applicant had been supported by evidence and its appreciation. It is not a case of no evidence and the findings cannot be challenged by re-appreciating the evidence. He has drawn our attention towards the report of the enquiry officer by which the charges leveled against the applicant are proved. The OA deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that the Tribunal vide its order dated 11th November, 2003 passed in OA No. 321/2000 had directed the respondent No. 2 to decide the applicant's revision petition dated 18.11.1997 within a period of three months from the date of receipt of a copy of this order by reasoned and speaking order. The OA was disposed of accordingly. We have perused the impugned order dated 15.1.2004 (Annexure A-1) passed by the reviewing authority deciding the revision petition of the applicant dated 18.11.1997. In this order it is clearly mentioned that "[T]he plea taken by the employee regarding his work, does not fit in the present case as on the very date of derailment, his work was very unsatisfactory. Also the characteristics of CRT and engine are not identical, thus it is not necessary for the engine to derail first. Regarding non-supply of copy of statements of Shri P.D. Jaiswal the then CPWI/RTM, recorded during the course of enquiry, it is pointed out that



7. After considering all the facts and circumstances of the case we are of the view that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the same is dismissed. No costs.

(M.P. Singh)
Vice Chairman

- (1) सचिव, नगरपालिका, काठमाडौं
- (2) आदेशावली/नियम/विनियमन/विधिवेगका कार्यसम
- (3) प्रत्यक्षी/नियम/विनियमन/विधिवेगका कार्यसम
- (4) विनियमन, विनियम, विनियमन, विनियमन

सकल एवं आवश्यक कार्यकारी सेवा

"SA"

उप रजिस्ट्रार

K.C. Backway Dr.
Ratlam.
Y.P. Mehta Dr.
D.D.