

Central Administrative Tribunal
Jabalpur Bench

OA No.854/04

Quoting this the 22nd day of June, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

Kishorilal Patel

Son of Late Shri Natthulal Patel

R/o Village and Post Juhila

Near Bhatti Dharamkata, Katni

District Katni (M.P.)

Applicant

(By advocate Shri S.Nagu)

Versus

1. Union of India
Through the Secretary
Ministry of Railway
Rail Bhavan, New Delhi.
2. Additional Divisional Railway Manager
DRM Office, West Central Railway,
Jabalpur.
3. Senior Divisional Mechanical Engineer
(Diesel), New Katni Junction,
West Central Railway, Katni.
4. Divisional Mechanical Engineer (Diesel)
New Katni Junction
West Central Railway, Katni. Respondents.

(By advocate Shri Ajeet Singh on behalf of Shri N.S.Ruprah)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:



- (i) Quash the penalty order dated 18.8.2003 (Annexure A5), appellate order dated 16.2.04 (Annexure A7) and revisional order dated 6.8.04 (Annexure A9) as being void, unlawful and arbitrary.
- (ii) Declare that the action of the respondents is vitiated by the vice of malafide and is an attempt to protect the real culprit at the cost of the petitioner
- (iii) Direct the respondents to grant all consequential benefits.

2. The brief facts of the case are that the applicant entered the service of the Railways on 7.10.1972 as Gangman at Manikpur. On 30.4.2003, the applicant was detailed for duty as Senior Clerk in Fuel Section from 9.30 am to 4.30 p.m. He was directed on that day by the Fuel Inspector to open the valve in the old shed so that the lubricant could be stacked for further distribution in the old shed. The applicant took the keys of the valve from one R.B.Singh, Head Clerk, who was in possession of the keys of both the valves of old shed as well as new shed, and went to the old shed and found that one of the valves was partly opened and had not been closed by R.B.Singh who had last taken the lubricant. After completing the job assigned to him, he properly secured the valve in the old shed and thereafter gave an explanation on 30.4.2003 itself (Annexure A1) about the entire incident. A charge sheet dated 20.5.03 was issued to the applicant (Annexure A2), alleging that 300 liters of lubricant oil was lost on account of applicant's negligence while taking oil in the old shed. He submitted a reply dated 30.5.03 denying the charges. Without application of mind, the disciplinary authority inflicted on the applicant a penalty of reduction of pay from the stage of Rs.4875 to Rs.4750 in the time scale of pay of Rs.4500-7000 for a period of two years non-cumulatively by order dated 18.8.2003 (Annexure A5). The penalty was imposed without conducting a departmental enquiry, as demanded by the applicant. The applicant preferred an appeal dated 4.10.2003 which was rejected by appellate order dated 16.2.2004 (Annexure A7) He preferred a further appeal on 15.5.04 which was also rejected by order dated 6.8.2004 (Annexure A9). Hence this OA is filed.



3. Heard learned counsel for both parties. Learned counsel of the applicant argued that the penalty and subsequent appellate and revisional orders are vitiated as the orders suffer from the cardinal mistake committed by the authorities of holding the applicant guilty of leakage of lubricant oil in the new shed where he was never posted. He further argued that R.B.Singh, Head Clerk, Ashok Kumar, Technician and Babulal, Khalasi posted in the new shed had committed the negligence by failing to secure the valve in the new shed. The action of the respondents was intended to protect R.B.Singh and other railway personnel posted in the new shed.

4. In reply, learned counsel for the respondents argued that the applicant took both keys of the valves of old shed and new shed from Shri R.B.Singh, Head Clerk and the old shed valve was partially opened and had not been closed by Shri R.B.Singh since lube oil last taken as himself seen by and admitted by the applicant. This clearly shows that the applicant did not ensure closure of the particular valve of old shed before transferring the lube oil from the storage tank. He further argued that as this is a case of minor penalty, a departmental enquiry is not needed.

5. We have heard both parties and carefully perused the records. We find that the applicant has demanded a departmental enquiry into the alleged incident of leakage of oil in the new shed where he was never posted. It was under the control and responsibility of one R.B.Singh, Head Clerk, as admitted by both parties. Even in cases of minor penalty, a departmental enquiry is required to be conducted, which the respondents have failed to do. Hence we are of the considered opinion that the impugned orders are liable to be quashed.

6. Accordingly, we quash the impugned orders Annexure A5 dated 18.8.2003; Annexure A7 dated 16.2.2004 and Annexure A9 dated 6.8.2004 and the matter is remitted back to respondents for



conducting a departmental enquiry into the incident and conclude the enquiry within a period of four months.

6. The OA is disposed of as above. No costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

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पृष्ठक्रमांक सं ओ/न्या.....जबलपुर, दि.....

पत्तिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय तार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/कु.....के काउंसल
- (4) वंशपाल, को.प्र.अ., जबलपुर न्यायाधीश सूचना एवं आवश्यक कार्यवाही हेतु

उम रजिस्ट्रार

Jewel
OR
4-7-05

S. K. Singh @ 21.03.05
M. S. R. Singh @ 21.03.05