

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 453 of 2002

Jabalpur, this the 18th day of June, 2004

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

Laxmi Pd. Dwivedi S/o Ayodhia Pd.
aged about 46 years, Ex Railway
driver under CCCOR Satna CRly. resident
of village Bina-ika PO Binaika
Dist. Satna (MP)

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India
through GM CSTM Mumbai CRly.
2. The General Manager,
C.Rly, CSTM Mumbai.
3. The Divl Rly Manager,
C.Rly, Jabalpur
4. The Senior Divl. Mech. Engineer.
C.Rly Jabalpur

RESPONDENTS

(By Advocate - Shri S.S. Gupta)

ORDER (ORAL)

By Madan Mohan, Judicial Member -

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

"(1) Orders of the old and new Disciplinary authorities (the IME and the Sr. DME) may kindly be quashed and set aside.

(2) Order of the Appellate Authority (DRM) may also kindly be quashed and set aside.

(3) The Revisional Authority (GM) may kindly be directed in the form of Mandamus to dispose of the Revision Petition within the stipulated period which this Tribunal may deem fit and just in the facts and circumstances of the case.

(4) To declare the intervening period from the date of compulsory retirement to the date of order of this Hon'ble Tribunal as the period of duty for all purposes".

QF

2. The brief facts of the case are that the applicant was a permanent employee and was working as a Goods Driver at Satna Depot of Jabalpur Division & Central Railways. The applicant while working DEO Spl. Goods train on 10.1.2000 Ex Satna to Banda had met with an incident in which his train working loco and dead loco attached next to it with one BCX wagon had gone into the Sand Hump of Chan Railway Station by passing the starter signal at ON position. Preliminary enquiry was conducted and prima facie cause of accident was said to be late application of brake by the driver. The applicant was served with chargesheet for a major penalty (A/8) against which he filed his representation (A/9). During enquiry, evidence of witnesses were recorded and applicant also submitted his defence statement. Enquiry officer submitted his report to the disciplinary authority exonerating the applicant from all the charges levelled against him. The disciplinary authority recorded his disagreement note with the enquiry report and findings of the enquiry officer. The applicant submitted his representation against it but the disciplinary authority passed the impugned order (A/1). The applicant filed appeal against the order of the disciplinary authority before the appellate authority. The appellate authority also rejected the appeal. Then the applicant filed a revision petition to the General Manager but he did not receive any reply to his revision petition. Hence, he sent reminders. Since more than six months have passed and no decision on the revision petition is taken by the respondents, hence this O.A. has been filed.

3. Heard the learned counsel for both the parties.

4. It is argued on behalf of the applicant that the order passed by the disciplinary authority dated 22.3.2001 (A/1) and order of the appellate authority dated 17.8.2001 (A/2) are non-speaking orders, as the applicant had mentioned full facts and circumstances of the incident in detail in his representation to the disagreement note of the disciplinary authority and in the



Memorandum of appeal but nothing has been discussed by the the authorities in the impugned orders passed by them. It apparently shows that they have not applied their minds while passing the impugned orders and are not tenable in law.

5. In reply, the learned counsel for the respondents argued that the disciplinary authority has legal right to disagree with the findings of the enquiry officer and he has looking to the charges levelled against the applicant, disagreed with the findings of the enquiry officer giving reasons their and applicant was asked to submit his representation, which he had submitted. The disciplinary authority after due consideration of the facts of the case and contents of the applicant raised in his representation passed the impugned order which is a speaking order. He further argued that the appellate authority has also passed the impugned order after considering all aspects of the case. Hence, no irregularity or illegality has been committed by the respondents in passing the impugned orders by the concerned authorities.

6. After hearing the learned counsel for both the parties and careful consideration of the record, we find that the applicant had submitted his representation against the disagreement note of the disciplinary authority (A/16) on 11.1.2000 which is a very detailed representation contained in 8 pages and he also filed an appeal (A/17) which is also a detailed one. In both the representation and appeal the applicant has mentioned all the facts and circumstances of the incident explaining that he is not the guilty of the charges/incident and the enquiry officer has rightly exonerated him. But the disciplinary authority without considering the findings of the enquiry officer and the contentions of the applicant raised in the representation filed by him against the disagreement note, passed the impugned order dated 22.03.2001 (A/1) imposing the penalty of compulsory retirement from service on the applicant with non-application of mind. The appellate authority also did not consider the contents of the Memorandum of Appeal at all as is evident from the impugned



appellate order dated 17.8.2001 (A/2) which contains no reason.

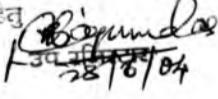
7. Having regard to the facts and circumstances of the case and in the light of observations made above, we are of the considered view that the disciplinary authority and the appellate authority have not dealt with the issues raised by the applicant while deciding the representation as well as appeal preferred by the applicant. Therefore, the impugned orders passed on 22.3.2001 (A/1) and order dated 17.8.2001 (A/2) by the disciplinary authority and the appellate authority respectively are quashed and set aside. The matter is remitted back to the disciplinary authority for passing a fresh order after considering the contentions raised by the applicant in his representation to the disagreement note, within a period of three months from the date of receipt of a copy of this order under intimation to the applicant. No costs.


(Madan Mohan)
Member (Judicial)


(M.P. Singh)
Vice Chairman

/na/

पृष्ठांकन सं. ओ/न्या..... जवलपुर, दि.....
प्रतिजिप्ति अवैधितिक
(1) सतीव, उत्तर प्रदेश लाय बार एसोसिएशन, जवलपुर
(2) आवेदक श्री/श्रीमती/स्त्री..... के काउंसल SN Khare
(3) प्रत्यार्थी श्री/श्रीमती/स्त्री..... के काउंसल SS Gajra
(4) गोपनीय, राज्यपाल, जवलपुर ज्यायायीठ
सूचना एवं आवश्यक कार्यवाही हेतु


38/6/04

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