

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH  
JABALPUR

Original Application No. 826 of 2002

Jabalpur this the 17th day of August, 2004

Hon'ble Mr.M.P. Singh, Vice Chairman  
Hon'ble Mr.A.K. Bhatnagar, Member(J)

Neeraj Pathak, Son of Late Shri S.C. Pathak, aged about 52 years, R/o 21 Vaishnav Building Surendra Place, Hoshangabad Road, Bhopal (M.P.).

Applicant

By Advocate Shri B.K. Rawat

Versus

1. The Union of India, through the Secretary, Railway Board, New Delhi.
2. The General Manager, Central Railway, Chhatrapati Shivaji Terminus, Mumbai.
3. The Senior Divisional Signal and Telecom Engineer Bhopal (M.P.)
4. The Chief Signal and Telecom Engineer, Central Railway, Bombay.
5. The Additional Divisional Railway Manager, Central Railway, Bhopal (M.P.)

Respondents

By Advocate Shri M.N. Banerjee

O R D E R ( Oral )

By Hon'ble Mr.A.K. Bhatnagar, J.M.

By this O.A. applicant has prayed for quashing the order of punishment dated 27.06.2000 by which one increment has been stopped with cumulative effect. He has further prayed for quashing the order dated 08.11.00

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passed by the appellate authority and to quash the order dated 20.08.2002 passed by the revisional authority.

2. The facts giving rise to this O.A. in brief are that while working as Senior Section Engineer at Bhopal in Microwave Organisation of Central Railway, Bhopal, he was charge sheeted on 25.02.1997 on the basis of report of CTI, Katni and the following charges have been levelled against the petitioner:-

"Article of Charge No.1 :

On 1.2.1997 about 6 hours all communication circuits (except block) failed in Katni-Beena Section. You have not taken any positive efforts to restore the same. This is a serious misconduct on your part thus you have violated Rule 3.1 (i) (II) & (iii) of Railway Servant Conduct Rules, 1966.

Article of Charge No.2

Shri Neeraj Pathak TCL-I, Katni-all communication failure continued for almost 05.00 hours and as a result normal train operation workin Katni-Beena Section was badly affected. It was found that the failure occurred due to blow up off fuse of 24 volt charger which it could not test by you. This shows indifference and carelessness working. This is a serious misconduct on your part. Thus you have violated Rule 3.1(i), (ii) & (iii) of Railway Servant Conduct Rules 1966. "

3. The applicant moved several representations for supplying the documents on which the charges were levelled. Thereafter respondents ~~had~~ refused to supply the documents demanded by the applicant, and supplied other documents, which were not demanded by the applicant.

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The petitioner submitted his reply on 04.11.1997 stating there in that no case is made out against him, therefore, charge sheet may be withdrawn (annexure A-7). Thereafter, an Inquiry Officer was appointed vide order dated 27.09.98 and inquiry was conducted. No prosecution witness turned up on sommany dates. Ultimately on 17.4.99 one witness Shri H.P. Adhikari, Chief Telecom Inspector, Katni appeared and had been examined, who had said nothing against the applicant. He was not cross examined by the applicant as there was nothing against the applicant in his evidence. As no other witness turned up, so the inquiry was closed and statement of the applicant was recorded. The Inquiry Officer submitted his report on 14.09.1999, copy of which has been received by the applicant on 04.10.1999. The applicant filed his reply. The disciplinary authority after receipt of reply, imposed a punishment for stopping one increment with cumulative effect, which as per the applicant, has been passed without considering even the inquiry report.

4. The applicant filed an appeal to the appellate Addl. authority i.e. Divisional Railway Manager, Hoopal on 17-08-00 (annexure A-13). The appeal was dismissed without passing any speaking order by the appellate authority (annexure A-14) on 08.11.2000. Thereafter, petitioner filed revision before the Chief Signal and Telecom Engineer, Bombay on 16.04.2001 (annexure A-15), which was rejected by the order dated 20.08.2002 (annexure A-16), hence he filed this O.A.

5. Learned counsel for the applicant has submitted that as no charge was made out against the applicant so...pg.4/-

issuance of charge sheet against him, is illegal. He further point<sup>ed</sup> out that only one witness was examined by the Inquiry Officer i.e. Shri H.P. Adhikari who said nothing against the applicant. Even in the inquiry report, nothing has been proved against the applicant still the applicant has been punished by withholding one increment with cumulative effect, which is patently illegal and bad in law. He further submitted that the appellate authority passed the order, which is not a speaking order. Even the Revisional Authority did not consider the revision filed by the applicant by open mind, which is clearly non speaking. Learned counsel for the applicant has finally submitted that as no charge is made out against the applicant, so the punishment awarded to the applicant is not tenable and the O.A. is liable to be allowed.

6. Resisting the claim of the applicant, the respondents have filed counter-reply. Counsel for the respondents has invited our attention to para-8 of the counter-affidavit and submitted that the prosecution witness Shri B.P. Adhikari has clearly stated in answer to question no.10 that the applicant took more time for repairs. Had he first tested the battery, which was the source of energy, the fault would have been detected in 5 minutes. He worked negligently and carelessly and took five hours in finding the fault delaying the trans for four hours. Thus, the charges were proved. He further submitted that during the inquiry it was revealed that communication failure happened on 01.07.2002 due to fuse blown up charger resulted in battery drainage, which

caused communication failure. The fault was minor and applicant should have detected within short time because he was holding the post of Section Engineer(T). This post is supervisory and of higher responsibility. Thus, it shows his lack, insufficient knowledge of circuits, which he was maintaining. He further submitted that the applicant was found guilty by the Enquiry Officer based on the evidence on record, which was also held by the Disciplinary Authority and a speaking order was passed by him. He further contended that the orders passed by the appellate as well as by the revisional authority are not liable to be interfered with as charges have been proved during the course of inquiry.

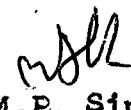
7. We have heard the learned counsel for the parties and perused the record.

8. Firstly we have seen the findings of the Enquiry Officer dated 24.09.99. From a careful perusal of the same, we find that the Enquiry Officer in the concluding paragraph has found the charge of indifference on Shri N. Pathak as not proved. Charge of carelessness was not fully proved because he has conducted various tests and also done radio patching to establish communication. We have also seen the evidence adduced by prosecution of Shri H.P. Adhikari, P.W.I., who has submitted nothing against the applicant in any manner. The fact that Shri H.P. Adhikari, P.W.I. was also present, which is also accepted by him, at KTE Repeater alongwith the applicant. This is also admitted fact that applicant conducted various tests and also done radio patching to establish communication so in no way it could be held that the applicant was in pg.6/-

any way responsible for the alleged break down. Moreover, it is found that he tried his best to get it repaired although he might have taken more time. As per the applicant he has served the department for last 26 years and therefore, it cannot be said that the applicant was not having sufficient knowledge of circuits, as has been mentioned in the last para of inquiry report. It appears to be a <sup>"self"</sup> safe conclusion of the Enquiry Officer as nothing has come out to this effect from the inquiry.

9. In the facts and above circumstances and in view of the aforesaid discussion, we are of the considered view that the finding of the Enquiry Officer is based on conjectures and surmises and it is his own self conclusion, which is based on no evidence against the applicant. Therefore, the order passed by the disciplinary authority on the basis of the inquiry report, is not tenable in law. Accordingly the O.A. is allowed. The order dated 27.06.2000 passed by the disciplinary authority, order dated 08.11.2000 passed by the appellate authority, and order dated 20.08.2002 passed by the revisional authority are quashed and set aside. The applicant shall be entitled for the consequential benefits. No order as to costs.

  
( A.K. Bhatnagar )  
Member Judicial

  
( M.P. Singh )  
Vice Chairman

/M.M./

पृष्ठांकन सं. ओ/व्या..... जबलपुर, दि.....  
प्रतिलिपि अच्छे हितः—  
(1) राधिय, उच्च न्यायालय वाय परोसियाल, जबलपुर  
(2) अद्यतल सी/रीवर्टन/हु..... वडे कारसल  
(3) जायपी थी/रीवर्टन/हु..... वडे कारसल  
(4) वायाल, दोप्रात, रामगढ़ न्यायपीठ  
सद्गत एवं आवश्यक कार्यकारी देने  
B.K. Raut  
M.N. Tanneer  
उप रेकर्डर