

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH, JABALPUR.

OA/ 438/98

Jabalpur, this the 16th June ' 2003

Hon'ble Mr. D.C.Verma, Vice Chairman (J)
Hon'ble Mr. A.K.Bhatt, Member (A)

Awinder Kumar Singh S/o.Shri Rana
Pratap Singh, Aged 40 years, Occup.
Assistant Electric Driver, Bilaspur,
M.P. R/o. 23 L.I.G. M.P.H.B. Colony
Deori Khurai, Bilaspur. Applicant
(Advocate : Mumari M. Nema)

VERSUS

1. General Manager, South Eastern Railway, Garden Reach, Calcutta -43.
2. Divisional Rail Manager, South Eastern Railway, Bilaspur.
3. Divisional Electric Engineer, South Eastern Railway, Bilaspur.
4. Asstt. Elect. Engineer(Parichalak) South Eastern Railway, Balispur. Respondents.

(Advocate : Mr. H.B. Shrivastava, Mr.M.N.Banerjee)

O R D E R (ORAL)

Per : Hon'ble Mr. D.C.Verma, Vice Chairman (J)

Learned counsel for the parties have been heard.



2. The applicant was imposed with a penalty of withholding of increment for two years with non-cumulative effect on the charge that the applicant being Assistant Driver, left the Loco unmanned.

3. The brief fact of the case is, ^{that} on the relevant date and time, the applicant A.K. Singh was working as Assistant Engine Driver with K.N. Pandey who was driver of the Loco. K.N. Pandey left the loco in the charge of the applicant and went to fetch security papers. It is alleged that the applicant also left the loco uncarfed. On surprise night inspection, the loco was found unattended. The applicant, however, appeared after five minutes, so he was served with the charge memo. After consideration of the representation and following due procedure, the applicant was punished with the above penalty order.

4. The submission of learned counsel for the applicant is that the applicant was actually not away from the loco but was present in the ^Y _{in} corridor of the loco. The submission is that the inspection team did not look into the ^Y _{in} corridor and marked the applicant absent. It is also submitted that though the main culprit namely K.N. Pandey who was the Engine driver has been punished by withholding of one set of passes, the applicant has been discriminated and has been awarded higher punishment of withholding of increment for two years.

5. Counsel for the parties have been heard at length. On perusal of the documents and pleadings on records, the applicant's case, on merit is not made out. Even in his reply dated 23-3-98, the applicant has not said that he was present

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in the corridor of the loco. This plea has been subsequently raised, so it cannot be accepted. On merit, the OA fails.

5. As regard quantum of punishment, learned counsel for the applicant submits that as the main Engine Driver, had failed to take the security papers at the time of signing the register, it was fault of the Engine Driver to leave the loco unattended. The department's case itself is that the Engine Driver should have taken the security papers while signing the register but he failed, so he left the loco in the charge of the applicant and went to fetch the security papers. Even if that be so, the applicant being an Assistant Driver cannot shirk his responsibility of not been present and to leave the loco unattended. However, if the driver K.N. Pandey has been awarded the punishment of stoppage of one set of P.T.O., the applicant cannot be discriminated on this account and the same penalty should have been imposed on the applicant also.

7. In view of the discussion made above, the OA fails on merit. However, the penalty awarded is modified to the extent that the respondents shall withhold one set of P.T.O of the applicant which may now be due to the applicant after receipt of a copy of this order.

8. OA stands decided accordingly. Cost easy.

Shankar
(A.K.BHATT)
Member (A)

(D.C.VERMA)
Vice Chairman (J)

Nilesh

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