

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 18.08.2018

ORIGINAL APPLICATION NO. 060/01012/2016

Chandigarh, this the 6th day of September , 2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

...

Jatinder Pal Uppal son of Sh. Raj Pal Uppal aged 49 years, Group 'C' presently working as Deputy Station Superintendent, Chandigarh, Railway Station, resident of House No. 1657, Sector 40-B, Chandigarh.

....APPLICANT

(By Advocate: Shri Jagdeep Jaswal, Advocate)

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Chief Operations Manager (G), Northern Railway, Baroda House, New Delhi.
3. Divisional Railway Manager, Northern Railway, Ambala Cantt.
4. Senior Divisional Operating Manager, Ambala Division, Ambala Cantt., Ambala.

....RESPONDENTS

(By Advocate: Shri Sanjay Goyal)

ORDER

AJANTA DAYALAN, MEMBER (A)

The present Original Application (O.A.) has been filed by applicant Jatinder Pal Uppal feeling aggrieved by the orders dated 16.2.2015 (Annexure A-1) passed by the Disciplinary Authority imposing punishment of withholding of increments for 3 years

without postponing future increments, order dated 8.6.2015 (Annexure A-2) rejecting his appeal and order dated 13.1.2016 (Annexure A-3) rejecting his revision petition. He has sought restoration of benefit of withheld increments alongwith all consequential benefits as well as interest @ 12% per annum.

2. The facts of the case are largely not in dispute. The applicant joined service as Assistant Station Master in 1999 and was promoted as Station Master in 2003 and further promoted as Station Superintendent in 2013. On 26.12.2014 when the applicant was working as a Rest-Giver, Deputy Station Superintendent, 14 spare LHB coaches were shifted from G-2 siding to G-1 siding due to operational requirements, which was monitored by the applicant. However, on 28.12.2014 at about 11:50 hours, the stabled stock suddenly started moving from G-1 siding and picked up adequate momentum and ran towards shunting neck (UMB end). While moving, the stabled rake took its path after breaking cotter pin and broke the dead end shunting neck causing derailment of three coaches - two leading coaches derailed by all wheels and falling down in low land area and the third one left in hanging position on track.

3. The respondents formed an Enquiry Committee to enquire into the matter and based on the recommendations of the Committee, a Memorandum of Charges was issued to the applicant on 6.1.2015. The charges against the applicant were that he was considered responsible for not ensuring the securing of the LHB load stabled in G-1 siding personally on 26.12.2014. He was

also responsible for not maintaining Stabled Load Register as per format issued by the division. This resulted into rolling down of the LHB rake and derailment of three caches on 28.12.2014. This showed his gross negligence, carelessness and irresponsibility towards duty and as such he violated para 3.1 (ii) and (iii) of Railway Service (Conduct) Rules, 1968.

4. The applicant submitted his reply on 23.1.2015. The Disciplinary Authority passed impugned punishment order dated 16.2.2015 (Annexure A-1). The appeal of the applicant dated 30/31.3.2015 was rejected by the Appellate Authority on 8.6.2015 (Annexure A-2) and his revision petition was also rejected on 12.1.2016 vide impugned order at Annexure A-3.

5. The counsel for the applicant pleaded that the said orders have not been passed after due application of mind and are not speaking orders. They do not take into consideration the points raised by the applicant. He has also stated that besides the applicant, other officers were also found guilty in the Enquiry Committee Report, but they have been punished with much lesser punishment and applicant alone has been victimized by imposing harsher punishment on him. He has pleaded that inquiry was held behind the back of the applicant and without giving him reasonable opportunity of hearing. He has also stated that he was only a Rest-Giver Deputy Station Superintendent and was not on duty on the date of rolling down of the load i.e. on 28.12.2014. He personally instructed the concerned staff to secure the load properly and to hand over the keys to the relief. Besides, as he was also entrusted

the duty of regular Station Master in addition to Deputy Station Superintendent, it was not possible for him to physically check the securing of vehicles in the goods yard. As regards Stabled Load Register, he has stated that no such Register was ever maintained in the office and as such he was not aware about the requirement for maintenance of such Register.

6. The respondents have stated that the Enquiry Committee during the course of hearing found only the applicant responsible for not ensuring the securing of load stabled in G-1 siding personally. The applicant never gave any recorded or verbal message regarding shortage of safety equipment. It is stated by the respondents that only a minor penalty has been imposed upon the applicant. Further, the Disciplinary Authority and the higher authorities have consciously applied their mind before passing the impugned orders.

7. Moreover, it is stated by the respondents that the applicant was to perform all the duties of Deputy Station Superintendent and Station Master, being an experienced supervisor having more than 20 years of experience. Thus the plea taken by the applicant that he was only a rest-giver Deputy SS and was not on duty on the date of rolling down of load is not acceptable. It is also stated by the respondents that the Disciplinary Authority and the Appellate Authority has considered all relevant aspects and the reply submitted by the applicant and only minor punishment has been imposed on him as he was found negligent in performing his duties. The plea taken by the applicant that the authorities have

not applied its mind was not acceptable as the authorities have studied the case with open mind and without any prejudice. The Revisionary Authority has also carefully considered the matter and not found any merit in the revision petition filed by the applicant. The respondents have concluded that in view of above, the applicant is not entitled for any relief being sought.

8. We have heard the learned counsels for the opposing parties, have carefully gone through the pleadings on record, and have given our thoughtful consideration to the matter.

9. First of all, we observe that the punishment inflicted on the applicant is only a minor punishment as it does not have the effect of postponing his future increments after three years. As such, the respondent department was not obliged to hold a full-fledged inquiry before imposing minor punishment. Still an Enquiry Committee of three officers was set up by the department and its findings have been accepted by all. Even the applicant himself has not challenged these findings. There is also no challenge to the Enquiry Committee Report in the O.A. As such there is no reason to believe that the enquiry is vitiated or malafide. There is thus no reason to question the findings of the Enquiry Committee. There is no dispute that the Enquiry Committee found the applicant guilty of dereliction of duty and being careless in performing his duties. The Disciplinary Authority and the Appellate Authority have accepted the findings of the Enquiry Committee. Hence, the only question that would remain for the punishing authorities is the quantum of punishment. This is the role of the punishing

authorities and the Courts can intervene only in rare cases. In any case, it is observed that only a minor penalty has been imposed on the applicant in the instant case even though due to the negligence on the part of the applicant, a major accident took place in the Railway Station which could result in loss of life, besides property worth crores of rupees that was lost. As such, the punishment awarded cannot be considered as too harsh or severe.

10. Besides above, there is no dispute about the fact that 14 spare LHV coaches were shifted from G-2 siding to G-1 siding due to operational requirements on 26.12.2014 when the applicant was working as a rest-giver Deputy Station Superintendent. The applicant himself has stated that this work was personally monitored by him. It is also not in dispute that on 28.12.2014 slightly before noon, the stabled stock suddenly started rolling down from the siding and after breaking cotter pin and dead end shunting neck, caused derailment of three coaches – two coaches fell down in low land area and third one was left in hanging position. It is also not in dispute that the rolling down on 28.12.014 was due to lack of proper securing of the stabled stock on 26.12.2014. Even the applicant himself has not effectively contested this contention. He has only stated that there was lack of adequate number of safety equipments like safety chain, wooden wedges etc. The applicant himself has categorically mentioned that 'he personally instructed the concerned staff to secure the load properly and thereafter to hand over the keys to the relief'. His plea is that it was 3.55 p.m. and he was required to make over charge to

the incoming Dy. Station Superintendent at 4 p.m. and as such he came back to his room after leaving instructions. The Revisionary Authority has clearly stated in its order that as per duty list, it was the duty of the applicant to ensure proper securing of vehicles in the yard. He has further observed that as it was his duty to personally supervise securing of the load, irrespective of working hours he should have completed the securing of the load before leaving duty as the shunting of this load had begun in his duty hours. The Revisionary Authority has also stated that as regards the contention of the applicant that S S yard was supposed to ensure securing of vehicles, the instructions mentioned by the applicant in support of this contention were issued only on 30.4.2015 and came into force on 1.5.2015. The said derailment took place on 28.12.2014 i.e. before the duty was assigned specifically to SS Yard. Hence the Revisionary Authority has found that the applicant was fully responsible to ensure securing of the rake when the accident took place.

11. The respondents have clearly stated that the Enquiry Committee consisting of 3 Junior Administrative Grade officers, found only the applicant responsible for not securing the load stabled and not maintaining the Register. Even the applicant himself has admitted that he did not personally supervise the securing of the load. He is now only giving excuses for not doing so. In the circumstances, the plea of the applicant that other officers were also responsible for the lapse does not hold much ground. Moreover, the punishment awarded to him is not a major

punishment even though the accident took place due to the negligence on the part of the applicant. Further, even if we go by the applicant's own pleadings, the other officers have been punished though their punishment has been reduced to a lesser level at a later stage. This may obviously be based on the level of responsibility of each officer and the role he was supposed to discharge in the incident.

12. As regards maintaining of load stock register, the applicant has simply stated that this Register was not maintained in the division and as such he was not aware of it. The Revisionary Authority has stated that Load Stock Register is to be maintained as per SR 5.23/3 (b) (ii) about which the applicant should have been aware, being a responsible railway servant. We also do not find any merit in the argument made by the applicant as he was an experienced officer of over 15 years of service on the date of accident and should have been aware of the requirements of the rules. At least, the ignorance of rules cannot be made as a basis for seeking relief. If at all, the sheer ignorance of rules would go against the applicant being an experienced and responsible officer at supervisory level.

13. In view of above, the orders of the Disciplinary Authority, the Appellate Authority and the Revisionary Authority do not suffer from any illegality. No ground has been made by the applicant to prove that they are mala fide. We also do not find any ground to believe that the applicant has been specifically targeted or victimized. The punishing authority and the higher authorities have

only inflicted a minor punishment upon him. This is despite the fact that a major accident took place due to the negligence of the applicant. Hence, we see no ground for interference in the said orders.

14. The O.A. is therefore found to be devoid of merit and is hereby dismissed. No costs.

(AJANTA DAYALAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 06.09.2018

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