

**Central Administrative Tribunal
Principal Bench**

OA No.4526/2013

New Delhi, this the 20th day of March, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Mukesh Bhardwaj,
S/o Shri Ram Rattan Bhardwaj,
Presently Residence of C/o Shri Rajnesh Sharma,
G-109, Vill. Gazipur,
Delhi-110096.

Applicant
(By Advocate : Shri Yogesh Sharma)

Versus

1. Union of India through,
The General Manager,
North Central Railway,
Allahabad.
2. The C.M.P.E./DSL,
North Central Railway Headquarter,
Allahabad.,
3. The Additional Divisional Railway Manager,
North Central Railway, Jhansi.
4. The Senior Divisional Mechanical Engineer (O&F),
North Central Railway, DRM Office,
Jhansi.

...Respondents
(By Advocate : Shri V.S.R. Krishna)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant was appointed as a Loco Pilot in the North Central Railways. On 20.09.2010, he was driving a

goods train. An accident took place, wherein the goods train collided with a passenger train on loop line. The applicant was issued a charge memo dated 21.01.2011, alleging that he wrongly crossed the home signal at Badarwas and as a result, the train dashed against the passenger train, resulting in huge loss of property and life. The applicant submitted his explanation to the charge memo. Not satisfied with that, a domestic inquiry was conducted. In his report dated 11.04.2011, the Inquiry Officer held the charge as proved. Taking the same into account, disciplinary authority passed an order dated 27.04.2011, imposing the punishment of dismissal from service. The applicant availed the remedy of revisionary appeal, to the concerned authority. Through an order dated 10.12.2012, the revisionary authority modified the punishment, to the one of removal from service with pensionery benefits, as per the rules.

2. The applicant challenges the order of punishment, as modified by the revisionary authority.

3. The applicant contends that several lapses have taken place in the inquiry and even in the report, the Inquiry Officer held that he, i.e. the applicant, is not

responsible for the loss of property or life; and despite that, the major punishment was imposed. It is also pleaded that though the revisionary authority was convinced that the applicant is not responsible for loss of life and property, the punishment of removal from service was imposed. Other grounds are also pleaded.

4. Respondents filed counter affidavit opposing the OA dealing with each and every averment in the OA. It is stated that the applicant was negligent in driving the goods train and on account of wrongful crossing the home signal, the accident took place, resulting in loss of life and property. It is also stated that once the inquiry officer recorded finding to the effect that the applicant was not responsible for accident, the punishment imposed against him cannot be said to be disproportionate. It is stated that the revisionary authority has shown indulgence to the applicant by reducing the punishment to the one of the removal from service, enabling him to draw the pensionary benefits.

5. We heard Shri Yogesh Sharma, learned counsel for applicant and Shri V.S.R. Krishna, learned counsel for respondents.

6. The allegation against the applicant was that he was responsible for a major accident. In the course of inquiry, it was clearly established that the applicant crossed the home signal though he was not given clearance. Naturally, the goods train proceeded further and dashed against the passenger train, which was standing in the loop line. The applicant did not deny that he proceeded further, though the signal was not given.

7. Respondents placed adequate documentary evidence before the Inquiry Officer to prove the charge. The observation of the Inquiry Officer that though the charge against the applicant is proved, he cannot be said to be responsible for the loss of property and life, is out of context.

8. The disciplinary authority has taken into account, the gravity of the misconduct and imposed the punishment of dismissal. In all fairness, the revisionary authority has reduced the punishment to the one of removal from service, enabling him to draw the pensionary benefits.

9. We do not find any ground to interfere with the orders challenged in the OA, and are not inclined to grant any relief to the applicant. Accordingly, the OA is dismissed.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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