

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.170/00553/2018

DATED THIS THE 27TH DAY OF AUGUST 2019

HON'BLE DR. K.B. SURESH, MEMBER(J)

HON'BLE SHRI CV.SANKAR MEMBER (A)

Jayaramaiah,
S/o Late D. Ahobalappa,
Aged about 51 years,
CGSR,
At:Bannikoppa Railway Station,
Taluk:Yalburga 583 236
Dist: Koppal,
R/o. Railway Quarters
No.16-F, Behind R.P.F. Office,
Opp. Gadag Railway Station,
Gadag-582 101.

.... Applicant

(By Advocate Shri S.P. Kulkarni)

Vs.

1.The Union of India,
represented by its Secretary,
Ministry of Railways,
Railway Bhavan,
New Delhi-110 001.

2.The Senior Divisional Commercial Manager,
South Western Railways,
Hubli. 580020

3.The Additional Divisional Railway Manager,
South Western Railway,
Hubli. 580020

4.The Chief Commercial Manager,
South Western Railways,
Hubli. 580020

...Respondents

(By Shri NS.Prasad, Counsel for Railways)

ORDER (ORAL)

HON'BLE DR. K.B. SURESH, MEMBER (J):

1. Heard the matter and examined the documents. The matter is squarely covered by the evidence given by one Mr.Narayana Naik who was the superior officer of the applicant.

2. Apparently, he was also punished with reduction of one increment for 6 months. We quote from the statement of Mr.Narayana Naik given on 12.5.2005 before the Chief Vigilance Inspector.

"STATEMENT OF SRI.M.NARAYANA NAIK SMI/VYASANA KERI

To: CVI/SWR/UBL on 12.5.2005

Q.1) Kindly introduce yours of along with service particulars?

I am M.Narayana Naik working as SMI Vyasanakeri since 2002. My Present Grade 6500-10500 with basic pay of 7300/- PF No.07282485.

Q.2) What was your duty on 31.3.2005 and 1.4.2005 at VYS station ?

I performed evening duty from 19.00 hrs. of 31.3.2005 to 7.00 hrs of 1.4.2005 as on duty station master.

Q.3) What one the duties of an duty Station Master (Shift Duty) at VYS station ?

I am involving Train passing duration receipt and placement of empty

rake, issue of placement memo of to commercial clerk dispatch of loaded rakes, receipt of realising memo, from commercial Clark, ensuring cleanliness of tracks for before dispatching rakes.

Q.4) *Give particulars about reception, placement, loading complete and departure of rakes on your duty and on 31.3.2005 and 1.4.2005 along with road number position ?*

HV Spl Emptier arrived on Road 2 of 23.40 Hrs on 31.3.2005. Further I have issued T-806 to GDR of HV Spl to back the emptier on Road 3 and further remmarshelled BV later. The placement of HV Spl/ RR 29 was given at 23.56 Hrs. of 31.3.2005. Further one loco detached and backed to road 2 for cleaning BV.

Q.5) *How many point man were available on 31.3.2005 / 01.4.2005 to assist in your duty ?*

I am not sure on to how many prints man were on duty on 31.3.2005/ 1.4.2005 to assist me.

Q.6) *AS per TSR when actually HV Special arrived at your station on 31.3.2005 ?*

As per TSR on 31.3.005 HV Spl. Empty rake arrived on road to 22.40 hours for loading of IOR towards HOM.

Q.7) *What is the arrival and placement timing you have shown in vehicle Register for T.No.HV Special / Rake No.RR-29 which arrived on 31.3.2005 for loading Iron our towards HOM ?*

As per vehicle registered I have shown arrived HV Spl./ RR-29 MT rake on 22.00 Hours of 31.3.2005 and placement of shown on 22.00 of 31.3.05 and placement of shown on 22.00 hours of 31.3.2005 on Road No.3.

Q.8) *Have you issued any placement memo for rake No.RR.29 which arrived on 31.3.2005 for loading towards HOM ? If so, what is the placement timing you have shown in the placement memo ?*

Yes I have issued placement memo for the rake R.R. 29 for loading of

towards BBM from road No.3 with placement timing of 22.00 hours on 31.3.2005. this placement memo I have issued to Sri.Jayaramaiah on duty goods supervisor and took the acknowledge and same.

Q.9) *When actually you have prepared the placement memo for the rake No.RR-29 which was shown as placed at 22.00 hrs. of 31.3.2005 ? when you have handed over the same memo to Sri.Jayaramaiah GSR/ BYS ?*

At 00.10 hours of 1.4.2005 I have prepared the placement memo for rake – RR 29 with placement timing of 22.00 of 31.3.2005 00.20 hours of 1.4.2005 I have handed over the above placement memo for rake No.RR-29 to Sri.Jayaramaiah GSR Vyasanageri

Q.10) *As per vehicle Register book what is the loading completion / release time shown for rake No.RR.29 which was shown as placed at 22.00 hrs of 31.3.2005 at Rd/3 on VYS ?*

As per vehicle registered as shown 23.55 hours of 31.3.2005 as loading completion / releasing time for rake No.RR 29 which was loading towards BBM with IOF. This rakes Shown SC.No. 47 MSPL – bbm, with rakes No.with rake NO.RR-29 / BBC No.223795 dtd: 31.3.2005.

Q.11) *On what basis you has shown the loading completion release time as 23hrs. of 31.3.2005 for Rake No.R-29 towards HOM ?*

I have shown the loading completion / release time on 23.55 hours of 31.3.2005 in vehicle registered for release RR-29 on the basis of release memo issued by Sri.Jayaramaiah GSR / Vyasanageri who had shown release time as 23.55 hours of 31.3.2005.

Q.12) *Actually by what time, loading was completed to Rake No.29 which was arrived on 31.3.2005 at VYS Station and exactly at what time you have received the loading completion / release memo from Sri.Jayaramaiah GSR / VYS ?*

Around 1.30 hours on 1.4.2005 loading was completed Rake RR.29 on Road 3. I received loading completion / releasing memo at 1.40 hours on

1.4.2005 from Sri.Jayaramaiah GSR/VYS as on loading with noting that 57 boxes loaded with S/C IOF to bbm in ready 23.55 hours on 31.1.2005.

Q.13) *Vide answer to Q.No.4 you have stated Rake No.RR-29 was actually arrived on Road No.2 at 23.40 hours of 31.3.2005 and placed at Road 3 at 23.56 hours on 31.3.2005.*

Vide answer to Q.No.12, you have stated that for rake No.RR-29 loading was completed at around 1.30 hours of 1.4.2005 and loading completion memo was received at 1.40 hours of 1.4.2005.

If so, why did you show the placement time at 22.00 hours of 31.3.2005 in placement memo issued for rake No.RR-29 and why did you accept the release memo with loading completion time to 23.55 hours of 31.3.2005, when actual placement as admitted by you was at 23.55 hours of 31.3.2005 and actual loading was completed at 1.30 hours of 1.4.2005 ?

Sri. Adimoolom SS in charge Vyasankerei handed over the charge of 19.00 hours of 31.3.2005 before leaving he instructed me to take the loading of bbm rake (HV Spl./ RR-29) for 31.3.2005 account itself and to convey the RR NO. also to loading section TNC.

All this manipulation of placement and releasing timing was shown for the rake RR-29 on 22.00 hours 31.3.2005 and 23.55 hours of 31.3.2005, in due to immense pressure and instruction given by Sri.Adimoolom SS incharge Vyasankeri I did not commit this mistake with modified in tern on it in all due to pressure given by SS/ VYS.

Q.14) *What is the major policy charges that took place w.e.f. 1.4.2005 in freight traffic ?*

With effect from 1.4.2005 chargeable fright for IOF has been enhanced from 140 class to 160 class and New Premium registration scheme introducing in D priority with chargeable fright of Two Clear higher than the normal class of charge. That is chargeable class for IOF in premium registration scheme.

Q.15) *So, you are very well aware of the financial loss to Railway Revenue caused by manipulated placement time given by you and manipulated release time accepted by you. Do you agree ?*

Yes I agree that there is financial loss to railways due to showing manipulated placement and releasing time for rake No.RR-29 which was shown as completed on 31.3.2005 actually loading completion of after 00.30 hours of 1.4.2005 and RR should have been changed of 160 class instead of 140 class.

Q.16) *Would you like to say anything ?*

Kindly pardon me as I committed this mistake only on the instruction of SS / SMS of Vysanakeri. Hence for more careful in future.

Sd/-

*(M.Narayana Naik)
SMI/VYS
12.5.2005."*

However, it makes matters clear.

3. Apparently, one rake of 57 wagons was to be loaded. In the commencement Register it is shown as received at 22 hours on 31.3.2005, in the placement memo. A case is now been put up that it actually arrived at 23.40 hours and the senior officials wanted the turn over to be reflected in that year's account. Therefore, one Shri Adimoolam and this Mr.Narayana Naik had apparently pressurized the applicant to show it as 22 hours instead of 23.40 hours. From the records it is also seen that work may have finished at 00.10 AM on 1.4.2005. But then the applicant now says that actually the work was finished at 1.30 hours on 1.4.2005. But then in the release memo

applicant had shown the figure as 23.55 hours on 31.3.2005. He says that it is only to aid the effort of the concerned Division in having more turn over. But then because of the change in financial year it caused a loss of about 2.5 lakhs to the Railways. But then even if the loading had commenced at 22 hours nobody can expect one rake full of iron ore to be loaded within 2 hours time. Quiet obviously it has come to the store much before . Even though the Commencement Register shows a different time as otherwise if it comes at 22 hours on 31.3.2005 then the concerned clerk at that point of time duty bound to inform the transporter that within another 2 hours' time there is going to be a change in rates as he will be held liable for this change in rates. It raises another question also. For the fault of the Railways who is to be held responsible?

4. But we find that applicant had colluded with his senior officials even though actual loss may not have been there. He had forged documents. But then we are now advised that on appeal applicant's punishment had been reduced to 12 months from 18 months but with cumulative effect. It cannot be said that the guilt of the applicant is more than that of Mr.Narayana Naik. Mr.Narayana Naik is given 6 months reduction of increment without any cumulative effect. Therefore, we hold that the same punishment will also hold good for the applicant also. Ordered accordingly.

5. OA is allowed. No order as to costs.

(CV.SANKAR)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

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Annexures referred to by the applicant in OA No.553 /2018

Annexure A1: Copy of Official Letter /Memo dtd.1.4.2005

Annexure A2: Copy of Official Letter /Memo dtd.17.4.2005

Annexure A3:Copy of charge Memo dtd. 9.5.2006 along with enclosures

Annexure A4: Copy of reply dtd.1.6.2006 submitted against charge Memo

Annexure A5:Copy of Second show-cause Notice dtd.13.9.2007 along with copy of Enquiry Report

Annexure A6: Copy of Punishment Order dtd. 14.12.2007

Annexure A7: Copy of Order in Appeal dtd.24.9.2010

Annexure A8: Copy of Revision dtd. 14.11.2010 submitted by applicant

Annexure A9: Copy of Order in Revision dtd. 9.8.2011

Annexure A10: Copy of Implementation Order dtd.23.9.2011 of Order in Revision

Annexure A11: Copy of the Order dtd. 24.2.2014 passed by the C.A.T., Bangalore, in O.A. No.155/2012

Annexure A12: Copy of Order dtd.24.12.2015 made in W.P No.109997/2014 (DB-S-CAT) passed by the Hon'ble High Court of Karnataka, Dharwad.

Annexure A13:Copy of Order dtd.4.4.2017 passed by the second respondent authority

Annexure A14:Copy of Appeal dtd.4.8.2017 filed by the applicant against the Order dtd.4.4.2017 before the third respondent authority.

Annexure A15:Final Order dtd. 12.12.2017 passed by third respondent authority in the Appeal filed by the applicant.

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