



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 2007/2014

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

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

Shri Kuldeep Kumar,
Age – 44, Group-C,
S/o Shri Sri Chand,
Ex. Diesel Assistant Driver,
Under C.T. F.O.,
West Central Railway, Gangapur City,
R/o House No. 3547, Jatwara Street,
Darya Ganj, New Delhi – 2.

...Applicant

(By Advocate: Ms. Meenu Mainee with Mr. H. K. Bajpai)

Versus

1. The General Manager,
West Central Railway,
Jabalpur.
2. The Chief Operating Manager,
West Central Railway,
Jabalpur.
3. The Divisional Railway Manager,
West Central Railway,
Kota.
4. The Senior Divisional Dlectrical Engineer
(TRO), West Central Railway, Kota.

...Respondents

(By Advocate: Mr. Shailender Tiwary)

ORDER (ORAL)

Mohd. Jamshed, Member (A):-

The applicant was working as Diesel Assistant
w.e.f. 19.02.1997 on West Central Railway. On



27.07.1997, the applicant was deputed to work on Train No. 2627 DN Karnataka Express, between Gangapur City to New Delhi. While on run, 2627, Karnataka Express collided with Hingiri Express near Faridabad Railway Station in which many people died. The applicant was held responsible for causing the said accident and a major penalty charge sheet was issued to him on 27.07.1997. A criminal case was also filed against the applicant.

2. Subsequently, an inquiry was ordered. The inquiry was completed on 03.11.1997 and the Disciplinary Authority (DA) passed the order of dismissal from service on 11.06.2004. The appeal submitted by the applicant on 22.07.2004 was rejected. Aggrieved by these orders the applicant filed OA No. 2313/2006 before this Tribunal. Tribunal vide order dated 19.08.2010 left it open for the applicant to make a representation to the respondents in light of his acquittal in the criminal case. The order passed by the DA was also set aside and the applicant was accordingly reinstated in the service. The respondents filed W.P. (C) No. 191/2012 in the Hon'ble High Court of Delhi against the order passed by this Tribunal. The



same was dismissed by the Hon'ble High Court directing that the inquiry may proceed after filing of defence statement and that the applicant can be reinstated but shall remain under deemed suspension.

3. Respondents reinstated the applicant and inquiry was commenced afresh. The IO submitted his report on 06.11.2012. The applicant submitted his representation on the inquiry report on 11.01.2013.. The Disciplinary Authority imposed penalty of removal from service on the applicant vide order dated 05.03.2013. Appeal submitted by the applicant was rejected. Aggrieved by this action the applicant has approached this Tribunal through this OA in the second round of litigation seeking relief in terms of quashing the order dated 05.03.2013.

4. The applicant has vehemently denied that he was responsible for causing this accident. He submits that he drew the attention of the driver to stop the train when it was approaching Faridabad by crossing the Red Signal and when the driver did not take action in time he applied the emergency



brake, in which his fingers were also injured, but the train did not stop and collided with Himigiri Express, resulting in the accident. He also submits that once he was acquitted in the criminal case; he cannot be held responsible for the accident.

5. The respondents filed the counter affidavit and opposed the OA. It is submitted that adequate opportunity was given to the applicant during the inquiry. It is stated that in terms of orders passed by the Hon'ble High Court, fresh inquiry was conducted and, thereafter, the DA imposed, the punishment of removal from service, holding the applicant, responsible for causing this serious accident.

6. We heard Ms. Meenu Mainee with Mr. H. K. Bajpai, learned counsel for the applicant and Mr. Shailender Tiwary, learned counsel for the respondents and perused the records.

7. The applicant was working as Diesel Assistant on WC Railway and deputed to work on Train No. 2627 DN Karnataka Express on 27.07.1997 between Gangapur City to New Delhi along with its main Driver. Train No. 2627,



Karnataka Express collided with Hingiri Express near Faridabad Railway Station as it passed the red signal, resulting deaths of many passengers. This being a major accident, a Statutory inquiry was conducted by Commissioner of Railway Safety, Western Circle, in which the Driver and the applicant were held responsible for this accident. Accordingly, major penalty charge sheet was issued to the applicant and an inquiry was conducted. On completion of the inquiry the DA passed the order of dismissal from service against the applicant. Further, in terms of order of Hon'ble Delhi High Court, fresh inquiry was ordered. The applicant was given full opportunity to present his case. The DA held the applicant responsible for failing to take necessary action of applying the emergency brake in time which resulted in this accident. An appeal was preferred by the applicant. The Appellate Authority took note of all aspects highlighted in the appeal and concluded that the applicant failed to take necessary action of applying the emergency brakes in time which resulted in this accident. For such a serious lapse which has resulted in loss of many lives the



applicant is squarely responsible and the punishment of removal from service was upheld, by rejecting his appeal.

8. The Driver and Diesel Assistant are fully responsible for safe and smooth running of their train and have to follow the laid down instructions and guidelines for signal visibility and to take prompt action after noticing different aspects of the signal. Adequate distance is available for taking necessary action by the Driver and the Diesel Assistant in case of noticing Red signal. In this case also, adequate distance was available, as the signal ahead was in a danger aspect i.e. Red. However, both, the Driver and the applicant failed to apply the brakes in time. The emergency brakes are supposed to be applied by the Diesel Assistant in time to control the train and bring it to halt, well before it reaches any obstruction. In alertness of the Driver and the applicant caused the accident which resulted in loss of lives and railway property. All reasonable opportunities were provided to the applicant by the DA and AA and



thereafter the punishment of removal from service is imposed against the applicant.

9. In this case the Statutory enquiry by Commissioner of Railway Safety held the applicant responsible. Subsequently, the DAR enquiry held him squarely responsible for causing this accident. This Tribunal cannot act as an appellate authority, in matters of this nature. Reasonable opportunity was given at every stage, by the respondents. The applicant did not complain of any procedural lapses.

10. The extent, to which, this Tribunal can interfere in the Disciplinary Proceedings or in assessing the nature of punishment, the Hon'ble Apex Court, in **State Bank of India Vs. Samarendra Kishore Endow** 1994 STPL 840 SC, held as under:-

“We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the inquiry Officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to [Article 309](#) of the Constitution. If there has been an enquiry consistent with the



rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide, is certainly not a matter for the Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.”

11. We do not find any legal infirmity with the inquiry or in the order passed by the Competent Authority. The Appellate Authority has also examined the matter in detail.

12. We do not find any merit in the OA. It is, accordingly, dismissed. There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

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