



2025:DHC:5059-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 28.05.2025
Pronounced on: 01.07.2025

+ **W.P.(C) 7621/2025 & CM APPL. 34013/2025**

GENERAL MANAGER, NORTHERN RAILWAYS AND
ORS.Petitioners

Through: Mr.Vijay Joshi, Adv.

versus

RAJEEV KUMARRespondents

Through: None

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed by the petitioners, challenging the Order dated 21.10.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 78/2017, titled ***Rajeev Kumar v. General Manager & Ors.***, allowing the O.A. filed by the respondent herein, and setting aside the departmental proceedings initiated against the respondent, including the chargesheet dated 21.09.2011, the penalty order dated 11.12.2012, the Appellate Authority's Order dated 15.09.2015, and the Reviewing Authority's Order dated 26.09.2016.



Factual Matrix

2. The respondent was posted as the Senior Section Engineer (Works) (SEE/W/E/GZB) at Ghaziabad from 04.08.1997 to 21.01.2008 under the Northern Railways. He was subsequently transferred and posted as SSE/M/GZB at Ghaziabad on 22.01.2008.

3. During his tenure, the respondent ordered the dismantling of two steel tank structures - one steel water tank at Punjab Lane Goods Yard at the Ghaziabad Station and another steel tank near Block Nos. 346 & 347 near the electric loco shed at the Ghaziabad Station.

4. It is the case of the petitioners that the dismantling was carried out without obtaining prior sanction or technical approval from the Competent Authority, without submission of a safety plan, and in violation of the prescribed procedural norms. Upon recommendation from the Vigilance Department, the Disciplinary Authority issued a chargesheet dated 21.09.2011 under Rule SF-5 of the Railway Servants (Discipline and Appeal) Rules, 1968 for major penalty proceedings, levelling the following charges:

“Sh.Rajeev Kumar Tyagi, SSE/W/M/GZB while working under ADEN/GZB have committed grave misconduct as much as:

He is responsible for dismantling of one steel water tank at Punjab Lane Goods yard at GZB station while working as SSE/W/M/G ZB & other steel tank near to Block No.346 & 347 near electric loco shed at GZB station while working as SSE/W/E/GZB without any sanctioned work, preparing safety planed and approval of higher officers. He is responsible for misappropriation of dismantled materials



worth about Rs.18 lacs of above two steel tank by adopting fraudulent means.

By the above act of omission and commission the said Sh.Rajeev Kumar Tyagi, SSE/W/M/GZB failed to maintain absolute integrity, exhibited lack of devotion to duty and acted in a manner unbecoming of a railway servant thereby contravened the rule No.3.1 (i), (ii) & (iii) of Railway Service Conduct (Rule) 1966.”

5. By his initial reply dated 28.09.2011, the respondent denied all charges and sought an inquiry. Subsequently, by his detailed reply dated 17.09.2012, the respondent accepted the charge of dismantling the steel tanks, but contested the remaining charges. He explained that the steel water tank near Block Nos. 346 & 347 came under his jurisdiction when he was posted as Senior Section Officer/W/E/Ghaziabad, and had been non-functional since 2001. He claimed that the then ADEN/Ghaziabad had declared the tank as abandoned and hazardous in 2005, recommending immediate dismantling, but the work was delayed due to the lack of a contractor.

6. The respondent further explained that a Railway contractor was appointed for dismantling overhead tanks *vide* Agreement dated 05.09.2009 (effective from 19.11.2007), and the dismantling was carried out in the interest of public safety.

7. Regarding the Punjab Lane Goods Yard tank, he stated that a new RCC overhead tank had already been provided as a replacement but could not function due to delays by the electrical department in deploying staff to operate the valves.



8. Concerning the allegation of misappropriation of materials worth Rs. 18 lakhs, the respondent denied the same, claiming that under the terms of the contract dated 05.09.2009, the dismantled material was the property of the contractor, and the Railways were to earn revenue for dismantling based on the area and items specified in the Agreement. He claimed to have written a letter dated 29.09.2010 to the Inspector, RPF, Ghaziabad regarding the dismantling of the steel tank at Punjab Lane Goods Yard, stating that the dismantled material was the property of the contractor.

9. An Inquiry Officer was appointed on 03.02.2012 under Rule 9 Sub-rule (2) of the Railway Servants (Discipline and Appeal) Rules, 1968, and inquiry proceedings were initiated by letter dated 23.04.2012. The respondent was cross-examined on 07.05.2012 and 14.05.2012. However, the Inquiry Officer did not submit any inquiry report.

10. Despite the absence of an inquiry report, the Disciplinary Authority imposed a major penalty on the respondent, *vide* Order dated 11.12.2012, reducing the respondent to a lower stage in the time scale of pay by two stages (six percent) for a period of three years with cumulative effect. The penalty order acknowledged that both steel water tanks were in a dilapidated condition and dangerous for public safety since 2005, and that there was a genuine and urgent requirement for dismantling. However, the penalty was imposed solely for not following due process.



11. The respondent preferred an appeal dated 12.08.2013 against the penalty order. However, the Disciplinary Authority delayed forwarding the appeal to the Appellate Authority until March 2014, that is, a lapse of eight months.

12. The Appellate Authority initially decided the matter *vide* Order dated 13.03.2014, reducing the penalty to one year without cumulative effect. Subsequently, the Appellate Authority returned the file to the Disciplinary Authority for the opinion and advice of the Vigilance Department, which *vide* letter dated 27.06.2014, returned the file to the Disciplinary Authority expressing disagreement with the decision of the Appellate Authority. In view of the vigilance objection, the Appellate Authority, rejected the appeal *vide* Order dated 15.09.2015, thereby upholding the original penalty.

13. The respondent filed a review petition dated 11.01.2016, which was rejected by the Reviewing Authority *vide* Order dated 26.09.2016, upholding the Disciplinary Authority's original order.

14. Aggrieved by these orders, the respondent filed the abovementioned O.A. before the learned Tribunal, challenging the chargesheet dated 21.09.2011, the penalty order dated 11.12.2012, the Appellate Authority's order dated 15.09.2015, and the Reviewing Authority's order dated 26.09.2016.

15. The learned Tribunal, *vide* its Order dated 21.10.2024, allowed the O.A., holding that the penalty/appellate/revisional orders suffered from legal infirmity and procedural lapses, particularly the absence of an inquiry report before the Disciplinary Authority, constituting a



complete violation of the principles of natural justice. The learned Tribunal noted that while the respondent had accepted the fact of dismantling the tanks, he had not accepted the other charges, and the Disciplinary Authority had proceeded on surmises and conjectures without a proper inquiry. The learned Tribunal, therefore, quashed and set aside the chargesheet dated 21.09.2011, the penalty, appellate, and the revisional orders, directing the respondents to grant all consequential benefits to the respondent.

16. Aggrieved thereof, the petitioners have filed the present writ petition.

Submissions of the learned counsel for the petitioners

17. The learned counsel for the petitioners submits that departmental proceedings were initiated against the respondent on account of serious misconduct involving dismantling of two steel tank structures without obtaining requisite approvals, safety measures, or sanction from the competent authority, thereby putting railway property and safety at risk. He submits that the respondent, functioning as Senior Section Engineer at the relevant time, was fully aware of the procedural requirements, but undertook unauthorized work in clear violation of established norms, which tantamounted to misconduct under the Railway Servants (Discipline and Appeal) Rules, 1968.

18. He relied upon the respondent's reply dated 17.09.2012, to submit that the respondent had accepted the charge of dismantling the



steel tanks. He submits that once the respondent accepted the charge of dismantling, all other charges flowed from the same cause of action and stood proved against him, making him liable for punishment.

19. He submits that the Disciplinary Authority, after following due procedure and providing adequate opportunity to the respondent to even examine the witnesses, had lawfully imposed the penalty, *vide* Order dated 11.12.2012, and the subsequent appeal and revision were dealt with in accordance with the law and after due consideration.

20. He further submits that the scope of judicial review is limited in disciplinary proceedings, and there was no violation of the principles of natural justice, as the respondent had voluntarily admitted the charges after being afforded ample opportunity. He submits that the order passed by the Disciplinary Authority, even in the absence of an inquiry report, did not suffer from illegality since the respondent had accepted the charges.

21. He submits that the learned Tribunal's order would set a wrong precedent by providing undue protection to delinquent employees and undermining the disciplinary control of the administration.

Analysis and Findings

22. We have considered the submissions made by the learned counsel for the petitioners, however, find no merit in the same.

23. The respondent was posted as Senior Section Engineer (Works) at Ghaziabad from 1997 to 2008 under the Northern Railways. During his tenure, he ordered the dismantling of two steel tank structures at



Punjab Lane Goods Yard at the Ghaziabad Station and near Block Nos. 346 & 347 near the electric loco shed at the Ghaziabad Station. It is not denied that both these tanks had been dysfunctional since 2001 and had already been declared as abandoned and hazardous in 2005, and recommended for immediate dismantling.

24. A chargesheet dated 21.09.2011 was issued to the respondent, alleging misconduct, including (a) dismantling the steel water tanks; (b) doing the same without any sanction; (c) without preparing a safety plan; (d) without approval of the higher authorities; and (e) misappropriation of the dismantled materials worth about Rs.18,00,000/- of two steel tanks by adopting fraudulent means. By his reply dated 17.09.2012, the respondent accepted the charge only of dismantling the steel tanks, but contested the remaining allegations. The relevant portion is reproduced below:

“Paying my humble regards, submit my submissions accepting the charge of dismantling of steel tanks levelled against me in annexure 1 of the above said SF-5.

However, to bring about the whole matter in proper context, I want to make following submissions, which will bring out all the facts in proper light.”

25. Despite an Inquiry Officer being appointed on 03.02.2012, no inquiry report was ever submitted. Regardless, the Disciplinary Authority imposed a major penalty *vide* Order dated 11.12.2012, which stood approved by the Appellate and the Reviewing Authorities.



26. Merely because the respondent had accepted the charge of dismantling the tanks, the same would *ipso facto* not amount to his accepting the remaining charges. In fact, the respondent had explained the circumstances in which he ordered the dismantling of the tanks. He provided detailed justifications for his actions, including safety concerns, emergent conditions, and procedural constraints. In our considered view, this cannot be construed as an unqualified admission of misconduct, sufficient to forgo an inquiry. Pertinently, the chargesheet dated 21.09.2011 contained multiple allegations, and each of these required an independent adjudication through the prescribed inquiry process.

27. In addition to this, the procedural framework established under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968, mandates that no major penalty shall be imposed except after an inquiry in the manner provided under the said Rule and Rule 10. It requires an Inquiry Officer to conduct a comprehensive examination of the charges and submit a detailed report. Notably, in inquiry proceedings, the inquiry report serves as the evidentiary foundation upon which the Disciplinary Authority must base its decision. The inquiry report is an essential component of the adjudicatory process that ensures fair adjudication and due process. Without such a report, the Disciplinary Authority lacks the necessary foundation to render its decision.

28. In the present case, while an Inquiry Officer was duly appointed on 03.02.2012, no inquiry report was ever submitted despite the



initiation of the inquiry proceedings. The decision of the Disciplinary Authority to impose a major penalty in the absence of an inquiry report constitutes a fundamental violation of the principles of natural justice. In fact, the Disciplinary Authority's own order dated 11.12.2012 acknowledged that both the steel water tanks were in a dilapidated condition and dangerous for public safety since 2005, and that there was a genuine and urgent requirement for dismantling. The Authority further noted that the tanks were deteriorated, old, and worn out, and that replacement had been planned as early as 2007. Despite these findings, the major penalty was imposed solely for not following due process. The Disciplinary Authority failed to appreciate the difference between a 'misconduct' *vis-a-vis* a mere 'neglect' or 'over exuberance'.

29. The subsequent appellate and reviewing proceedings are also vitiated by the fundamental defect in this case, that is, the absence of the inquiry report. Additionally, the Appellate Authority's initial decision dated 13.03.2014 to reduce the penalty, followed by its reversal in the order dated 15.09.2015 after the vigilance objection, further demonstrates the uncertainty throughout the proceedings.

30. Though the scope of judicial review in disciplinary matters is limited, it extends to ensuring compliance with statutory procedures and the principles of natural justice. In the present case, the absence of an inquiry report despite the respondent's non-admission to four out of five charges, constituted such a fundamental procedural violation, requiring intervention under Article 226 of the Constitution of India.



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31. The learned Tribunal's decision to quash the entire proceedings rather than remanding the same for a fresh inquiry also finds favour with us. The chargesheet was issued in the year 2011, and the proceedings had continued for over a decade, with the respondent approaching superannuation in the year 2025. In such circumstances, remanding the matter for a fresh inquiry would have been an exercise in futility and potentially prejudicial to the respondent.

32. In view of the above, we find no merit in the present petition. The same is accordingly, dismissed.

33. There shall be no order as to costs.

NAVIN CHAWLA, J.

RENU BHATNAGAR, J.

JULY 01, 2025/SJ