

28.07.2025
(D/L-147)
Ct. No.4
(B.K.N.)

W.P.C.T. 102 of 2018

**Mukul Chandra Mondal
Vs.
Union of India & Others**

Mr. Tapan Kumar Majumder

...for the Petitioner

1. Heard learned counsel for the petitioner.
2. The petitioner was posted as Senior Sectional Engineer and was served with a charge memo dated 29.07.2016 proposing to inflict a minor penalty on the petitioner for certain charges enumerated therein as follows:

“After scrutiny, the following irregularities have been noticed:

1. Tri colour touch is out of order due to battery
2. Check rail was not clean
3. GWR available in English only not in Hindi
4. Loose Packing at approach sleeper of LC
5. No proper arrangement for fixing banner flag
6. Nearest pathway shop connected with the level crossing even in closed condition”

3. The petitioner has made his representation against this charge memo dated 29.07.2016 on 12.08.2016. Upon consideration of the reply the petitioner has been visited with a penalty “*one increment without next due is stopped for one year with cumulative effect*”. The petitioner assailed this punishment before the Tribunal after exhausting his departmental remedies the Tribunal on 30.11.2017 has dismissed the petitioner’s Original Application bearing no. O.A. 1330 of 2017.

This order is the subject matter of the present proceedings.

4. It is submitted by the learned advocate appearing on behalf of the writ petitioner/applicant that though the petitioner was served with a charge memo proposing a minor penalty, he has been inflicted a major penalty. The major penalty has been inflicted without conducting a departmental proceeding.
5. It is also submitted that the charges contained in the memorandum dated 29.07.2016 were vague and lacking in details in relation to the charges and on such ground the charge memo itself is vitiated and liable to be set aside.
6. Upon consideration of such submissions we have examined the charge memo, petitioner's reply, and Disciplinary and Appeal Rules, 1968, copy of which has been handed over to us. Upon going through the provisions contained therein we find that the minor penalties are enumerated in Rule 6. Rule 6(iv) reads:

“6. **Penalties** :The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Railway servant, namely:-
.....

Minor Penalties –

(iv) Withholding of increments of pay for a specified period with further directions as to whether on the expiry of such period this will or will not have the effect of postponing the future increments of his pay;”

7. As per the rule the withholding of increment for a specified period is without any doubt a minor penalty. The first submission of the petitioner that the petitioner has been visited with a major penalty, therefore, is clearly unsustainable.
8. Insofar as the second submission that the penalty has been imposed without conducting any disciplinary proceedings, we find such submission to be unsustainable for the simple reason that the charge memo proposed a minor penalty and the petitioner was visited with a minor penalty. The procedure for imposing penalty specified in part four of the 1968 Rules clearly contemplates a discretion in the disciplinary authority to hold an enquiry in every case in which the disciplinary authority is of the opinion that such enquiry is necessary. At the same time the rule vests a discretion in the disciplinary authority to take a representation, if any, into consideration for the purpose of imposing a minor penalty as has been done in the present case. In view of the rule provision for imposing a minor penalty as, opportunity of making a representation against the charges appears to be sufficient compliance with the Principles of Natural Justice.
9. The third submission of the learned advocate for the petitioner regarding charges being vague, are clearly a product of afterthought. The petitioner has submitted

his reply to the charge memo without raising any such objection that he is in any way incapacitated in dealing with the charges for want of any details. In fact in response to the charge memo the applicant/petitioner has not disputed his oversight but has sought to justify the same in the following terms:

“The irregularities occurred due to my occational diversion to some ‘special job’ accrued. For instance those days PW1’s are required to remain physically present all along at the site and exercise strict supervision to ensure the perfection of work. During such diversion period is also a reason of irregularities of L. C. gates.”

10. The plea of vague charges is, therefore, not sustainable.

11. The charges against the petitioner are touching upon the safety of the passengers travelling by railways. Having regard to the petitioner’s reply wherein he does not deny or dispute the allegations, the procedure having been found to be as per the 1968 Disciplinary and Appeal Rules we find no infirmity in the decision of the Tribunal dismissing the petitioner’s Original Application. It is settled in law that judicial review is normally limited to the decision making process and not the decision. There being no procedural infirmity and for reasons indicated above, we find that the Tribunal’s order has not occasioned any injustice requiring invocation of extra ordinary and discretionary jurisdiction of judicial review under Article 226 of the Constitution of India in the matter.

12. The petitioner has also relied upon a judgment of the Apex Court in the case of ***High Court of Judicature at Bombay –Vs.- Shashikant S. Patil and Another*** reported in ***(2000) 1 SCC 416***. The reliance placed on the said judgment in our opinion is misplaced since the same is regarding a procedural lapse in conducting of a disciplinary proceedings, which is not applicable to the present facts and circumstances where we have found no procedural infirmity as per the extant rules, for imposition of a minor penalty.
13. The writ petition is dismissed.
14. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)