



2026:DHC:198-DB



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

Reserved on: 19.12.2025
Pronounced on: 12.01.2026

+ W.P.(C) 5889/2019
KARNAIL SINGHPetitioner
Through: Mr. Kumar Rajesh Singh,
Ms.Punam Singh & Ms.Varnika
Singh, Advs.
versus
UNION OF INDIA AND ORSRespondents
Through: Mr. Tanveer Ahmed Ansari,
SPC

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS.JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed challenging the Order dated 24.08.2018 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 2971/2013, titled ***Karnail Singh v. Union of India through the General Manager, Northern Railway & Ors.***, dismissing the said O.A. filed by the petitioner herein with the following findings:

“In view of the peculiar facts of this case, in this OA only the order dated 12.12.2012 is under challenge and said order dated 12.12.2012 is a well considered and detailed order which has been produced as Annexure A/4 at pages 21 to 30 of the paper book. As the said order is well considered order, we do not find any merit in the submission of the counsel



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*for the applicant in challenging the said order.
In the facts and circumstances narrated above,
the OA is devoid of merit.
Accordingly, OA is dismissed. No order as to
costs.”*

FACTS OF THE CASE

2. Briefly stated, the facts in which the present petition arises are that the petitioner was initially appointed in the Railway Department on the post of Loco Cleaner on 08.03.1996, and was subsequently promoted to the post of Assistant Loco Pilot at the Ambala Cantonment.

3. While working as Assistant Loco Pilot at Ambala, a charge-sheet under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 ('the Rules') was issued against petitioner on 19.04.2007, by Shri. S.P. Singh, the then Senior Divisional Mechanical Engineer (O&F), Ambala. The same was duly received by the petitioner and contained the following Article of Charge:

*“On 03.10.2006 you entered into the Chamber of ADME(O) Ambala at 12.30 hours and while abusively asked him to get his penalty waived off, which had been given to him under the Discipline and Appeal Rules, otherwise he will finish you and your family and in the same you told the Inquiry Officer. Upon noticing your aforesaid violent behavior, you were advised to remain cool and made him understand that he should prefer an appeal before the competent authority and after this you leave from Chamber.
On 05.10.2006 at about 01:10 pm you again came into Chamber and while misbehaving abused him and threatened him as well as that issued get his punishment reduced by asking*



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CDME otherwise he will kill his family. The above officer told him to go out of his office peacefully and you expressed your violent dissentment and went away. After this you have threatened him on mobile by which you are hereby guilty for misbehaving, threatening, using unparliament language on the senior officers.

You are hereby violated the Rule 3.1 Para (i),(ii) & (iii) of the Railways Servant (Conduct) Rules, 1966.”

4. This Charge Sheet was issued pursuant to a complaint received from Mr. R.K. Saini, Assistant Divisional Mechanical Engineer (ADME). Pertinent to mention is that based on the same incidents, prosecution under Sections 145, 147 and 179 of the Railways Act, 1989 ('Railways Act') was also initiated and CrI. Case No. 2094-2, titled ***State of Haryana v. Karnail Singh***, was instituted against the petitioner.

5. In the departmental proceedings, though Sh. B.B. Suri, Senior Loco Inspector, Ambala was appointed as the Inquiry Officer, he was replaced by Sh. Narain Singh.

6. The Inquiry Officer issued notice to the petitioner on 12.07.2008, 10.09.2008 and 14.11.2008, however, the petitioner did not join the inquiry proceedings. Resultantly, an *ex-parte* Inquiry Report dated 14.01.2009 was submitted. A copy of the same was sent at the address of the petitioner along with a show cause notice dated 27.01.2009, intimating that the petitioner may file a response against the inquiry report within 10 days. After apprising the divisional office, a copy of the inquiry report along with a show cause notice was also



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pasted on the Shed Notice Board, Bhatinda on 19.02.2009. However, no representation against the inquiry report was received by the Disciplinary Authority. Resultantly, the Disciplinary Authority also proceeded *ex-parte*, and *vide* its order dated 26.02.2010, imposed the penalty of removal from service on the petitioner under the Rules.

7. This order was sent to the petitioner on 03.03.2010 through registered post. Intimation of the same was also issued in the Dainik Bhaskar newspaper on 19.04.2010. It is the case of the petitioner that he came to know of his removal from service from the said newspaper clipping.

8. The petitioner then submitted an appeal against the penalty order on 11.06.2010, which came to be rejected by the Appellate Authority, *vide* an order dated 01.11.2010.

9. Parallely, the petitioner came to be acquitted in the criminal case on 10.08.2010.

10. Basis this acquittal, the petitioner submitted representations on 08.11.2010 and on 05.12.2010 addressed to the Disciplinary Authority for reconsideration of his case in accordance with the Letter No. E(D&A) 25 RG 6-4 Railway Circular ('Railway Circular') dated 07.06.1995. We quote the said circular below:

*"Copy of letter No. E(D) 25 G 6-4 dated -
7.6.95 from Joint Director (Estt) &(D&A),
Railway Board, New Delhi
To, The General Manager, All Indian
Railways etc. & others.
Sub:- Review of decision taken in
departmental proceedings on acquittal of a
Railway servant in a court on the same*



charges.

Arising out of a demand made by AIRF in the PNW meeting the question whether a decision taken in departmental proceedings need to be reviewed following acquittal of the railway servant by a court in a criminal case on the same charges has been examined.

2. It is clarified that there is no legal bar to the initiation of departmental disciplinary action where criminal prosecution is already in progress and generally there should be no apprehension of the outcome of the one affecting the other, because the ingredient of delinquency, misconduct in criminal prosecution and departmental cases, as well as the standards of proof required in both cases are not identical. Thus, the departmental and criminal proceedings can be initiated simultaneously against the delinquent employed and disciplinary proceedings can also be continued and concluded without waiting for the conclusion of criminal case against the employee on the same charges.

3. However, if the facts, circumstances and the charged in the Departmental proceedings are exactly identical to those in the criminal case and the employee is exonerated/acquitted in the criminal case on net merit (without benefit of doubt or on technical grounds), then the departmental case may be reviewed if the employee concerned makes a representation in this regard.

Please acknowledge receipt."

(emphasis supplied)

11. The representations were forwarded to the Chief Operation Manager, N. Railway, but were returned with the remark that they should have been addressed to the President. Information to this effect was given to the petitioner by the Disciplinary Authority, vide letter



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dated 19.07.2011, with a covering letter dated 23.08.2011.

12. Thereafter, the petitioner approached the learned Tribunal by way of O.A. No. 1316/2012, titled ***Karnail Singh v. Union of India Through the General Manager, Northern Railway & Ors.*** When the case came up for hearing on 07.05.2012, the said O.A. was withdrawn with liberty to file afresh.

13. The petitioner then filed O.A. No. 3436/2012, titled ***Shri Karnail Singh v. Union of India Through the General Manager, Northern Railway & Ors..***

14. The learned Tribunal *vide* its Order dated 10.10.2012 disposed of the said O.A., with the following directions:

“Through this OA, the applicant, an Ex Assistant Loco under the Northern Railway is challenging the penalty of removal vide order dated 28.2.2010. The order of the Appellate Authority dated 01.11.2010 rejecting the appeal as time barred is also under challenge. Besides, as per the impugned order dated 23.8.2011, the applicant has been informed that the second appeal can only be submitted to the President of India.

2. It would be submitted by Shri Yogesh Sharma, learned counsel for applicant that in the criminal case on a charge arising out of the same set of allegation, the applicant has been acquitted vide the Trial Court's order dated 10.8.2010. Further, it would be submitted that in terms of the Railway Board's Circular No.E(D&A) 25RG 6-4 dated 7.6.1995, in such cases, there is a provision for review of the departmental case itself on a representation by the concerned employee. The learned counsel Shri Sharma would submit that at this stage, the applicant would be satisfied if a time bound direction is given



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to the Disciplinary Authority to consider the representations of the applicant dated 08.11.2012 (Annex.A4) and 5.12.2010 (Annex.A5) respectively.

3. Considering the averments before us, we find it appropriate to dispose this OA at the admission stage itself by directing the Disciplinary Authority i.e. the Respondent No.4 to consider the aforesaid representations of the applicant and pass a speaking and reasoned order. This is to be done within a period of two months from the date of receipt of a certified copy of this order. It is clarified that we are not expressing any view as to the merit of the case. Registry is directed to ensure receipt of copy of this order along with copy of the OA with the respondents.”

15. In compliance of the said directions, the Disciplinary Authority passed an order on 12.12.2012, disposing of the representations filed by the petitioner.

16. The petitioner then filed O.A. No. 2971/2013, praying for the following relief:

“(i) ... quashing the impugned penalty order dated 28.02.2010, Appellate Authority order dated 01.11.2010, Charge Sheet dated 19.04.2007 order dated 19.07.2011 with covering letter dated 23.08.2011 and order dated 12.12.2012 declaring to the effect that the same are illegal, arbitrary against the rules, against the principle of natural justice and consequently pass an order of reinstatement of the applicant in set vice with all consequential benefits including the arrears of pay and allowances during the intervening period deeming no charge sheet was issued to the applicant. ...”

17. The learned Tribunal, vide its Impugned Order, dismissed the



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said O.A. filed by the petitioner with the findings as have been recorded hereinabove.

18. Aggrieved of the above, the petitioner has filed the present petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

19. The learned counsel for the petitioner submits that disciplinary proceedings were initiated in complete negation of the principles of natural justice. They were conducted with pre-conceived notions and in a pre-determined manner.

20. He highlights that the complainant, that is, Sh. RK Saini, himself conducted the fact-finding inquiry, based on which the Charge Sheet came to be issued. Sh. R.K. Saini was also cited as the sole witness in the Charge Sheet. He submits that no one should be the judge in his own cause, and in support, places reliance on the judgments of the Supreme Court in *Mineral Development Ltd. v. State of Bihar & Anr.*, AIR 1960 SC 468, and *Baidyanath Mahapatra v. State of Orissa & Anr.*, (1989) 4 SCC 664.

21. He submits that barring the Charge Sheet and the order by which Sh. Prabhu Dayal was appointed as the Inquiry Officer, no further notice or communication was received by the petitioner regarding the inquiry proceedings as his address had changed. He submits that the petitioner, in fact, also filed a representation dated 10.07.2007 seeking supply of relevant documents necessary for preparing his defence. Neither were the documents supplied nor was



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the representation disposed of. He submits that the petitioner was not even supplied copies of the daily order sheets of the *ex-parte* inquiry proceedings and found out about his removal from service by the publication in the Dainik Bhaskar newspaper.

22. He submits that the Disciplinary Authority failed to issue notice to the petitioner prior to inflicting the penalty, and that the appellate authority rejected his appeal without granting him an opportunity of personal hearing.

23. He contends that the above actions of the respondents are not only violative of the petitioner's constitutionally protected rights, but are also violative of the settled principles of service jurisprudence. He places reliance on the judgments of the Supreme Court in *H.L. Trehan & Ors. v. Union of India & Ors.*, (1989) 1 SCC 764, and in *Chamoli District Cooperative Bank Limited through its Secretary/Mahaprabandhak and Anr. v. Raghunath Singh Rana & Ors.*, (2016) 12 SCC 204; and of this Court in *Amar Singh Bhati v. Union of India & Ors.*, 2002 SCC OnLine Del 1139, to buttress his submission.

24. He highlights that the petitioner has been acquitted in the criminal case arising out of the same incidents, *vide* Order dated 10.08.2010 passed by the learned HCS (Judicial), Special Railway Magistrate, on the ground that the "*prosecution has failed to produce any incriminating evidence to prove the commission of offence punishable under section 145 and 146 of Railways Act*". He submits that the Railway Board Circular dated 07.06.1995, provides that if the



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facts, circumstances, and charges in departmental proceedings are identical to those in a criminal case, and the employee is acquitted in the criminal case on merit, then the departmental case may be reviewed if the employee makes a representation. He submits that such representations were duly filed and ought not to have been rejected by the Disciplinary Authority *vide* its order dated 12.12.2012 in a perfunctory manner, as it was clearly a case of no evidence.

25. He contends that the petitioner was not paid subsistence allowance for this period. He places reliance on the judgment of the Supreme Court in *M. Paul Anthony v. Bharat Gold Mines Ltd. & Anr.*, (1999) 3 SCC 679, to submit that non-payment of subsistence allowance is an inhuman act which may vitiate departmental proceedings. He submits that the non-payment is also violative of the statutory rule of the Railway Board, that is, the RBE dated 18.08.1998 NR PS: -7928.

26. He contends that therefore, the Impugned Order passed by the learned Tribunal as well as the orders passed in the departmental proceedings are liable to be quashed and that the respondents should be directed to reinstate the petitioner with all consequential benefits, including back wages.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS

27. The learned counsel for the respondents submits that in the departmental proceedings, there was no violation of the principles of natural justice. He submits that multiple intimations were sent to the



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petitioner prior to and at various stages of the proceedings. He further highlights that it is the own case of the petitioner that he was aware of the Charge Sheet and the appointment of Sh. Prabhu Dayal as the Inquiry Officer. Instead of contacting Sh. Prabhu Dayal, the petitioner chose to absent himself and returned all correspondences sent to him as unserved. He submits that therefore, the petitioner appears to have intentionally not participated in the departmental proceedings to delay them, owing to which, he was proceeded *ex-parte*. The petitioner cannot take the benefit of his own wrongs.

28. He submits that both, the Disciplinary and Appellate Authorities, passed reasoned orders after taking into consideration the facts and circumstances, and that the petitioner was also given an opportunity for personal hearing.

29. He submits that the scope of judicial interference in departmental proceedings is limited, and a re-appreciation of evidence cannot take place merely because another conclusion is possible.

30. He states that it is a settled principle of law that the degree of proof required in departmental proceedings is vastly different from the degree of proof required for proving a criminal charge. In a departmental proceeding, the finding can be recorded on a preponderance of probabilities, and it is not necessary that the charge must be proved to the hilt. He submits that therefore, acquittal in criminal proceedings cannot *ipso facto* lead to the departmental proceedings being set aside.



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31. He submits that therefore, the present petition, being devoid of merit, ought to be dismissed.

ANALYSIS AND FINDINGS

32. We have considered the submissions made by the learned counsels for the parties. We have also perused the original record of the departmental proceedings produced before us by the learned counsel for the respondents.

33. At the outset, we would like to note that it is settled law that the Court should generally refrain from re-appreciating the evidence presented in the departmental proceedings. However, interference is justified when the proceedings are found to be inconsistent with the principles of natural justice, or in violation of statutory rules, or when the finding is perverse/based on no evidence.

34. Having noted the above, we shall now deal with the Impugned Order passed by the learned Tribunal as also the orders passed in the departmental proceedings.

35. The learned Tribunal, in its the Impugned Order, has opined that only the order dated 12.12.2012 passed by the Disciplinary Authority was under challenge before it, as the petitioner had given up his right to challenge the previous orders passed by the respondents in the departmental proceedings at the time of disposal of O.A. No. 3426/2012. We do not agree with the said finding. The learned Tribunal in its Order dated 10.10.2012 passed in O.A. No.3426/2012 had, without going into the merits of the case, merely directed the Disciplinary Authority to consider the petitioner's representations and



pass a reasoned order. In such circumstances, the petitioner could not have been held as being barred from challenging the previous orders passed the respondents in the departmental proceedings. The learned Tribunal has, therefore, erred in restricting the scope of challenge.

36. Even otherwise, in the present case, the petitioner had been acquitted in the criminal case arising out of the same incident, in ***State of Haryana v. Karnail Singh*** (supra) vide an Order dated 10.08.2010. We quote the finding of the learned Special Railway Magistrate as below:

“11. As per the version of the prosecution, accused Karnail Singh had firstly entered into the office/chamber of complainant Rakesh Kumar on 3.10.2006 at 12.30 p.m. And secondly on 5.10.2006 at 1.10p.m. And created nuisance there by aggressively using vulgar language whereby he infact threatened the complainant to get his punishment already granted to him in respect of some departmental case, waived of. It deserves to be noticed here that from bare perusal of contents of the complaint Ex.P.W.2/A clubbed with his testimony recorded as P.W.1, it is clear that the complainant has not given any description of the alleged vulgar or abusive language used by the accused. The complainant ought to have been specific and should have disclosed the exact language which was used by the accused and only then any conclusion could have been arrived at. Furthermore, the prosecution has not led any iota of evidence to prove that on any previous occasion the accused was ever punished in any kind of proceedings.

12. Another important aspect of the matter is that version of the complainant does not find any support from the statement of any other witness. It is an admitted fact no independent witness was joined in the investigation. P.W.1



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— complainant has admitted in his cross examination that his chamber is surrounded by the chambers of other officers as well but no such officer was joined as a witness. The prosecution, had intact joined a Peon namely Gurmeet Singh as a witness, who had allegedly witnessed the occurrence. Said Peon Gurmeet Singh appeared as P.W.2 and got recorded his examination in chief and his cross examination was deferred but he did not turn up to ace cross examination whereas Ld. APP closed the prosecution evidence. The Honble Apex court in State of Orissa's case (supra) has held that where a witness is not cross examined for his non availability it will be unsafe to rely on examination in chief of such a witness, Hence, the statement of P.W.2 is liable to be ignored but even if it is read, it shatters the case of the prosecution as P.W.2 has categorically deposed that accused had not used any abusive language in his presence either on 3.10.2006 or 5.10.2006. Still further, it is not out of place to mention here the fact that admittedly incident had allegedly taken place on 3rd and 5th of October 2006 whereas the complainant submitted his application for registration of case only on 6.10.2006, which suffers from delay. No effort has been made by the complainant to explain the aforesaid delay on his part in reporting the matter to RPF for registration of case against the accused. Thus, aforesaid unexplained delay is fatal to the case of prosecution. In these circumstances the sole testimony of complainant can not be relied and acted upon. As far as testimony of other witnesses is concerned, the same is more or less formal in nature and they simply proved the formal steps taken by them during the course of investigation and none of them witnessed the occurrence. With this quality of evidences, clear that the prosecution has failed to prove the fact that the accused had either created any kind of the nuisance or used



obscene language so as to cause obstruction in official work of complainant.

13. It is abundantly clear from the above discussion that prosecution has failed to produce any incriminating evidence to prove the commission of offence punishable under Sections 145 and 146- of Railways Act.

14. In view of the above discussion, by extending benefit of doubt, the accused is hereby acquitted of the charge levelled against him under Sections 145 and 146 of Railways Act. The accused is on bail. His bail bonds stand discharged. File be consigned to record room after due compliance.”

37. Though the above Order states that the petitioner has been extended the benefit of doubt, the fact remains that the said acquittal was rendered after a full-fledged trial and after due consideration of all the evidences led by the prosecution.

38. In ***Deputy Inspector General of Police & Anr. v. S. Samuthiram***, (2013) 1 SCC 598, the Supreme Court has clarified that when an acquittal takes place after a full trial, it can be interpreted as being an honourable acquittal. We quote from the said judgment as below:

“24. The meaning of the expression “honourable acquittal” came up for consideration before this Court in RBI v. Bhopal Singh Panchal [(1994) 1 SCC 541 : 1994 SCC (L&S) 594 : (1994) 26 ATC 619]. In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions



“honourable acquittal”, “acquitted of blame”, “fully exonerated” are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression “honourably acquitted”. When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.”
(emphasis supplied)

39. In light of the above, the acquittal of the petitioner in the present case can be termed as an honourable acquittal. Taking into consideration the Railway Circular dated 07.06.1995, as has been quoted by us hereinabove, this acquittal could not have been simply brushed aside by the Disciplinary Authority *vide* its order dated 12.12.2012 as being not on “merit” but on “benefit of doubt”/ “technical” grounds. The finding of the learned Tribunal upholding this order is therefore erroneous.

40. One option open to us is to remand the matter back to the competent authority of the respondents to re-consider the case of the petitioner specifically taking into consideration his acquittal in the criminal case in accordance with the Railway Circular dated 07.06.1995. However, in the peculiar facts of the present case, we do not opt for this course inasmuch as, the incident in question relates back to almost two decades and the departmental proceedings themselves suffer from lacunas which shall be highlighted by us hereinbelow.



41. Inquiry proceedings are quasi-judicial in nature and resultantly, the Inquiry Officer so appointed also plays a quasi-judicial function. He/she is an independent adjudicator who has a duty to arrive at a finding on the basis of the evidence led before him/her, and cannot merely rely on the documents filed by the department to hold the employee guilty. Reliance to this effect can be placed on the judgment of the Supreme Court in *State of Uttar Pradesh & Ors. v. Saroj Kumar Sinha*, (2010) 2 SCC 772, wherein it was opined as under:

“28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.”

(emphasis supplied)

42. In the present case, the inquiry report makes no reference to any evidence, if any, recorded during the inquiry proceedings. Rather, it simpliciter records that the allegation against the petitioner is true and that he was attempting to delay the proceedings. The Inquiry Officer has not acted as an independent adjudicator to see whether the unrebutted evidence, if any, is sufficient to hold the charge against the



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petitioner to be true. In fact, the Inquiry Officer finds the petitioner as guilty of charge on the basis of his failure to report for duty at Bhatinda. Such an *ipse dixit* finding, in our view, vitiates the inquiry proceedings.

43. The Disciplinary Authority issued a notice dated 27.01.2009 to the petitioner seeking his response to the Inquiry Officer's report. By the impugned order dated 26.02.2010, the Disciplinary Authority imposed a punishment of "removal from railway services with immediate effect" on the petitioner. As far as the finding on the allegations is concerned, the Disciplinary Authority observes as follows:

" 1.1) Despite sufficient opportunities afforded to the CO, namely, Sh. Karnail Singh, Asstt. Loco Pilot/BTI, he did not come forward to defend his case, as he neither appeared in any of the hearing before the Enquiry Officer, nor he received copy of enquiry report, nor submitted Defence note, though the same was sent to him through registered post.

1.2.) The enquiry report as well as documents on the file clearly prove that Sh. Karnail Singh, Asstt. Loco Pilot /BTI, on 3.10.2006 forcibly entered into the chamber of Sh.R.K.Saini, the then ADME(OP), hurled abuses and also threatened for eliminating him as well as his family members, if he (Asstt. Mech. Engineer) does not reduce his punishment, besides other allegations in the complaint...."

44. The Disciplinary Authority further took into consideration not only the Charge Sheet and the inquiry report, but also other complaints filed against the petitioner and his past service record, in



order to hold him guilty of the charge levelled against him and for imposing the punishment. We quote the conclusion arrived at by the Disciplinary Authority as below:

“2.0) CONCLUSION

From the perusal of service record of employee-Karnail Singh, as well as charge sheets served upon the employee and a number of complaints made against him, it is clear that CO Karnail Singh is in the habit of act of misbehaviour, creating nuisance and use of unparliamentarily language with his senior officers as well as his colleagues, for which departmental action was taken against him from time to time and punishments were imposed, the details have been given above.

3.0 I, therefore, hold you guilty of the charges levelled against you and have decided to impose upon you the penalty of “Removal from railway services: with immediate effect. You are, hereby, removed from service with immediate effect. ...”

(emphasis supplied)

45. Importantly, neither the Charge Sheet nor the Show Cause Notice accompanying the Inquiry Report, informed the petitioner or elicited his response to the fact that the Disciplinary Authority intends to take into account the past service record of the petitioner and the punishments imposed upon him for deciding the quantum of punishment in the present inquiry proceedings. This, therefore, was a violation of the principles of natural justice. Reliance to this effect can be placed on the judgment of the Supreme Court in ***State of Mysore v. K. Manche Gowda***, 1963 SCC OnLine SC 50.

46. The finding of the Disciplinary Authority was then upheld by the Appellate Authority, not only on ground of the appeal being barred



by limitation, but also with the observation that the charge against the petitioner is “*fully proved by cogent evidence*”. We quote the relevant excerpt of the Appellate Authority’s order dated 01.11.2010, as below:

“3) From the evidence on file, it is clear that appellant Sh. Karnail Singh, Ex. Asstt. Loco Pilot, hurled abuses and used threatening language to Sh. R.K. Saini, the then ADME (OP)/UMB, This has *been fully proved by cogent evidence. From the perusal of service record of employee Karnail Singh, as well as charge sheets served upon the employee and a number of complaints made against him, it is clear that Sh. Karnail Singh, Ex.ALP, has a chequered history of misbehaviour/misconduct with his senior subordinates as well as his colleagues. In the past also, he was removed from service for a serious misconduct.*

4.0) CONCLUSION:

For the reasons recorded hereinabove, I am of the view that the averments made in the appeal of appellant does not hold ground and the order of Disciplinary Authority imposing punishment of “removal from railway service” does not attract any interference. Consequently, the appeal of the Sh. Karnail Singh, Ex. Asstt. Loco Pilot, stands rejected on the grounds discussed hereinabove.”

(emphasis supplied)

47. We, however, find that the present is clearly a case of no evidence, wherein the finding of guilt has been recorded on the basis of conjectures and surmises. The departmental proceedings, therefore, suffer for multiple procedural lapses and violation of the principles of natural justice and, therefore, cannot be sustained.



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48. Be that as it may, there is some merit in the contention of the respondents that communications regarding the departmental proceedings were duly sent to the petitioner at his Ambala address, and that the petitioner too can be faulted for the delay and in not participating in the inquiry proceedings, resulting in him being proceeded *ex-parte*. These factors guide us in moulding the relief to be granted to the petitioner.

49. Accordingly, we deem it appropriate to set aside the Impugned Order dated 24.08.2018 passed by the learned Tribunal as well as the Orders passed in the departmental proceedings by the Disciplinary Authority as also by the Appellate Authority.

50. We direct that the petitioner shall be treated to have been reinstated in service with continuity of service for purposes of seniority, notional and pensionary benefits. However, he shall not be entitled to the back wages.

51. The respondents are directed to comply with the above directions within a period of eight weeks from today.

52. The petition is disposed of in the above terms.

53. There shall be no orders as to costs.

54. The original record of the departmental proceedings has been returned.

NAVIN CHAWLA, J.

MADHU JAIN, J.

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