

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Gulzar Ahmed, CJ  
Mr. Justice Ijaz ul Ahsan

**CIVIL APPEAL NO.10 OF 2021**

[Against the judgment dated 11.06.2019, passed by the Federal Service Tribunal, Islamabad in Appeal No.3343(R)CS/2017 with MPs]

***Senior General Manager/CEO, Pakistan  
Railways Headquarters, Lahore and  
others.***

*...Appellant(s)*

***Versus***

***Abdul Rauf Shamoon.***

*...Respondent(s)*

For the Appellant(s) : Mr. Jawad Mehmood Pasha,  
ASC  
Naveed Mubashar Ch. D.S.  
Multan

For the Respondent(s) : Mr. Zubair Hussain Jarraal, ASC  
Raja Abdul Ghafoor, AOR

Date of Hearing : 19.04.2021

**O R D E R**

**GULZAR AHMED, CJ.-** The respondent was employed as an Engine Driver in Pakistan Railways. He was issued charge-sheet and statement of allegations dated 25.10.2016. He submitted his reply dated 30.10.2016. Enquiry Committee was constituted, which conducted the regular enquiry and ultimately gave finding that the respondent was guilty of commission of offence and recommended awarding of major punishment to the respondent. The respondent was dismissed from service vide order dated 15.04.2017. He filed departmental appeal, which came to be regretted vide order dated 05.07.2017. The respondent filed

service appeal in the Federal Service Tribunal, Islamabad **(the Tribunal)**. The service appeal was heard and vide impugned judgment dated 11.06.2019, the same was partly allowed by converting penalty of dismissal from service into that of compulsory retirement from the date of his dismissal.

2. Leave to appeal was granted on 08.01.2021, relevant portion of which is as follows: -

“The learned counsel for the petitioners contends that the train being driven by the respondent collided with a stationary goods train and tremendous loss of Rs.120,000,000/- (Rupees twelve crore) on that account was caused to the Pakistan Railways and even the operation of railways on the line was gravely effected. During this incident, four persons also lost their lives. Further contends that such collusion was on account of respondent's violating the red signal in that he was required to stop the train when there was a red signal but instead he continued driving the train and ultimately collided with the stationary/goods train.”

3. We have heard the learned counsel for the parties and have also gone through the record of the case.

4. Learned counsel for the appellant has contended that on account of respondent's misconduct the accident had taken place and in this regard in the preliminary enquiry so also in the regular enquiry the respondent was found responsible for the said accident and pursuant to the recommendation of the regular enquiry committee, he was imposed penalty and there was no

occasion for the Tribunal to have interfered with reducing the penalty from dismissal to that of compulsory retirement.

5. On the other hand, learned counsel for the respondent has supported the impugned judgment and contended that respondent has denied the charges. He has further contended that it was a case of contributory negligence as other employees were also proceeded in the same incident, who were awarded minor penalties. The learned counsel relied upon the case of Jan Muhammad vs. The General Manager, Karachi Telecommunication Region, Karachi and another (1993 SCMR 1440).

6. The Tribunal in the impugned judgment has noted that collusion of trains has taken place and the respondent was admittedly a driver of the train, which collided with the stationary Goods Train. The Tribunal found that the respondent was bound to follow the signals and while nothing the fact that the signal man has also been punished concluded that there was a fault in the entire system and the case being of a contributory negligence, the respondent cannot be exonerated from his negligent act, at the same time interfered with the quantum of penalty imposed upon the respondent considering his 36 years' service.

7. The charge against the respondent, as contained in the statement of allegations, was that while working on 14 Down (Awan Express) Train on 15.09.2016, he was responsible for collusion of 14 Down in the rear of stationary Down ZBKC Special Goods Train at KM 61/2-3 between SSH-SJB stations on Multan Cantonment-Lodhran Double Line. He was further charged of being responsible in running the Train at excessive speed after

passing LXD-4 signal at danger. He did not even apply emergency brakes resulting in catastrophic accident. He was further charged that after stopping at LXD-4, which signal was at danger, he was required to proceed further upto the next auto signal with a cautious speed. He was further charged that of failure to have good lookout and to control his Train. He was further charged that he violated Rules 6 (a) & (b), 122, 259 (b) and 260 of the General and Subsidiary Rules. The respondent has submitted his reply dated 30.10.2016, in which he has not denied the allegations made against him in the statement of allegation but gave his own version in the following manner:-

“As far as GR-259(b) is concerned the train stopped at LXD-4 gate signal and afterward the LXD-4 gate signal change her aspect and train left for the next block section ahead. Is this action for stopping the train at LXD-4 signal being red not sufficient to declare our vigilancy and good outlook? So these allegations are not attributable toward the undersigned as far as the question of accelerating train speed is concerned no hard and fast orders were issued from time to time in regard the LXD/LXU signals because they are not falling under the definition of an automatic signal.

As far as the violation of GR-6 (a) & (b), it is pointed out that I observed the LXD-4 signal in danger position and stopped my train at LXD-4 signal, after availing two minutes stoppage I start my train on hand signal of the gate man. No sooner my train move LXD-4 signal changed her aspect to green, so allegation of violation of GR-6 (a) & (b) does not arise.

As concerned to application of emergency brakes it is pointed out that the tail lamp of ZBKC was not burning and the range of head light of ZCU locomotives is 180 to 200 metres and 9 seconds will take to cover this distance at the speed of 80 KMPH. Whereas 2 to 3 second will take for mentally preparation and the brakes of ZCU locomotives take place in 3 to 5 seconds, remaining 4 seconds are not sufficient to stop the train. The burning spots will only appear when the train braking power will be extra ordinary tight otherwise no such sign and symptom will be appear. This is an unexpected incident and everything is being assumed."

8. It is noted that LXD-4 signal was showing red light that is danger position and respondent seems to have stopped the train at the said signal. He stopped the train for only two minutes and then started the train at hand signal of a gate man. Learned counsel for the respondent was asked to show as to who was the gate man who gave the hand signal, he stated that such gate man has not been examined in the enquiry. We may note that respondent himself having taken defence that he has started the train on hand signal of a gate man, it was incumbent upon the respondent to have positively proved this very aspect of his defence but the respondent did not produce the gate man, who is said to have given the hand signal for starting the train.

9. Further, the respondent has stated that no sooner the train moved, LXD-4 signal changed her aspect to green. Again the learned counsel for the respondent was asked to show what is the evidence on the record, which could establish that when the train

was moved by the respondent, the signal became green. Learned counsel for the respondent replied that there is no evidence to substantiate this defence of the respondent.

10. We may note that the train, which was being driven by the respondent, met with a catastrophic accident causing substantial loss to the property of Pakistan Railways so also the loss of human lives and the respondent in his reply has merely taken an evasive stand, rather on its close reading appears to have admitted that he has moved the train while signal was red in the danger position.

11. The factum of two defences taken by the respondent of hand signal of a gate man and signal turning to green having not been established, it becomes clear that the respondent violated the red danger signal. Further, the respondent has accelerated the train to the speed of 80 kilometres per hour and that he did not apply emergency brakes, these charges have not been denied by the respondent. The Tribunal in the impugned judgment has not considered these very important aspects of the matter, which the respondent has admitted in his reply to the charge-sheet.

12. As noted in the leave granting order the accident has caused direct monetary loss of Rs.120,000,000/- (one hundred and twenty million) to the Pakistan Railways and it also took lives of four innocent persons and looking at the conduct of the respondent, there was no ground on the basis of which the Tribunal could have interfered with the imposition of penalty of dismissal imposed upon the respondent. No ground whatsoever were available to the Tribunal for doing so. The judgment relied

upon by the learned counsel for the respondent deals with the procedure of holding of an enquiry, to which there is no cavil, but here the case is one where the respondent in his reply to the charge-sheet has admitted the facts that he has stopped the train on the red signal for two minutes and then moved the train when the signal was red and accelerated it to a speed, where it could not be stopped by him nor did he apply the brakes. The Tribunal has also found the respondent responsible for such accident and has not exonerated him from the same but converted the penalty from dismissal to compulsory retirement.

13. In view of the above, we allow the appeal and restore the order of imposition of penalty of dismissal from service upon the respondent.

14. Above are the reasons of our short order of even date.

**CHIEF JUSTICE**

Bench-I  
Islamabad  
19.04.2021  
'APPROVED FOR REPORTING'  
Rabbani/\*

**JUDGE**