

(1969) 08 RAJ CK 0010

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1858 of 1966

Shikhar Chand Sethi

APPELLANT

Vs

The Divisional Mechanical Engineer (E), Western Railway,
Kota Division, Kota and Others

RESPONDENT

Date of Decision : 22-08-1969

Acts Referred:

Constitution of India, 1950 — Article 310, 311

Citation : AIR 1970 Raj 210

Hon'ble Judges : V.P. Tyagi, J

Bench : Single Bench

Advocate : J.P. Jain, for the Appellant; R.S. Sharma, for the Respondent

Final Decision : Allowed

Judgement

V.P. Tyagi, J.—Petitioner Shikhar Chand has filed this Writ Petition under Article 226 of the Constitution and it arises out of the following circumstances:--

On February 2, 1959. petitioner Shikhar Chand was working as a Second Fireman, colloquially known as "Agwala". He was booked on Engine No. 9545-W.G. which was nominated to run the goods train 966 Up from Gangapur City to Kota. The crew on that engine consisted of driver Dukhi Ram, First Fireman Chatrulal and the petitioner as a Second Fireman (Agwala).

It is alleged by the petitioner that the driver found certain deficiencies in the engine and the matter was brought to the notice of the Supervisor to make good the deficiencies. It is said that the staff did not properly attend to the complaints made by the driver and the crew was asked to take the engine out of the loco shed. It is further alleged that the feeding staff did not provide engine drenching pipe on that engine and therefore the petitioner had to make repeated requests to provide the said pipe. Since the engine on which the petitioner was deputed to work was not found fit in accordance with Rule 116 of the General and Subsidiary Rules (Western Railway), the driver, the petitioner and also the first Fireman

refused to work the engine till the deficiencies were made good. This refusal of the crew ultimately resulted in the cancellation of the goods train.

The grievance of the petitioner is that as the petitioner was an active worker in the union of the railway employees and had also served as a Secretary to the Western Railway Mazdoor Sangh, the Railway authorities found it to be a suitable occasion to pick him up for taking disciplinary action against him for the alleged refusal to work the engine on 2nd of February, 1959, though the other members of the crew were equally responsible for the same. Consequently, the petitioner was served with a charge sheet Ex. P/1 alleging that he refused to obey the order of loco foreman and obstructed other railway staff in the discharge of their duties and himself refused to perform his duties. The petitioner denied all the charges.

An enquiry was then set up. The enquiry officer after recording the statements of certain witnesses and also examining the petitioner, found that the petitioner was willing to work only when coal drenching pipe was provided which, according to him, meant that he (the petitioner) refused to work, and on that basis, the petitioner was found guilty of the charge of refusing to perform his duties. The enquiry report was placed before the disciplinary authority viz. Assistant Operating Superintendent, Kota, who found the petitioner guilty of the said charge and passed the order of dismissal on 13th February, 1960.

The petitioner preferred an appeal against the said order to the Divisional Superintendent Kota, but he could not get any relief from the appellate authority also. Thereafter the petitioner preferred to file a civil suit against the Union of India in the court of Munsiff, Gangapur praying that a declaration may be given that the order of dismissal passed by the Divisional Mechanical Engineer Kota on 13-2-66 as upheld by the Divisional Superintendent Kota on 23-4-60 be held as illegal and void. He also sought a decree for Rs. 1504/12/- as arrears of pay due to him from the railway up to the date of the suit i.e. 31-7-60 and further prayed that his pay at the rate of Rs. 126/4/- p.m. may also be decreed till the suit was decided by the court.

The Union of India filed its written statement in the suit and on the basis of the pleadings various issues were struck by the trial court. The main issue on which the arguments of the parties have centred round is Issue No. 4 -- which was framed by the trial court into two parts. This issue reads as follows:--

4(a) Whether this Court can go into the correctness of the facts on the strength of which the plaintiff was dismissed from service?

4(b) If yes, whether the dismissal order is justified on the facts found to be proved by the court.

After recording the evidence on behalf of the parties the trial court decided the case in favour of the petitioner and held that the dismissal of the petitioner was illegal as it was based on inferences which were not permissible in law but were a

result of a pure guess and conjecture. The court therefore set aside the order of dismissal and passed a decree of Rs. 1504.75 along with pendente lite salary at the rate of Rs. 126/4/- till the date of the dismissal.

The Union of India filed an appeal against the said judgment of the learned Munsiff dated 30th April, 1963 in the court of the Senior Civil Judge, Gangapur. That appeal was decided by the learned Senior Civil Judge on 21-3-66 and by his judgment the decree passed by the trial court in favour of the petitioner was upheld in toto. The Union of India, however, did not prefer any second appeal against the judgment and decree of the Senior Civil Judge, Gangapur, and under the decree of the court the defendant paid the amount of the decree to the petitioner/plaintiff, but the authorities in spite of the unequivocal declaration of the court in favour of the petitioner, that his dismissal was illegal did not reinstate the petitioner in his post, and passed another order on 10-6-66 suspending the petitioner from the back date when he was dismissed by the D.M.E. i.e., from 13th of February, 1960. The D.M.E. also ordered a fresh enquiry into the same charges which had formed the basis of the previous enquiry resulting in the wrongful dismissal of the appellant.

The petitioner on receipt of the second charge sheet, submitted his reply on 3rd of July, 1966, whereby he challenged the competence of the authorities to order a fresh enquiry on the same charges. In that reply it was specifically mentioned by the petitioner that the judgments and the decrees of the civil courts enjoin on the railway administration to treat the petitioner as an employee in the railway from the date of the original suspension. It so appears that this plea of the petitioner did not find favour with the Railway authorities who by one stroke of pen annulled the effect of the judgment and decree of the competent Civil court by suspending the petitioner from the date when he was dismissed by the D.M.E. on those charges.

The petitioner also made it clear that if he were not reinstated in his job and the railway authorities pursued the de novo enquiry, then the petitioner shall be compelled to invoke the extraordinary jurisdiction of this Court. In spite of this reply the railway authorities persisted in holding a de novo enquiry on the old charges. Having felt aggrieved by this attitude of the railway authorities, the petitioner has filed this writ application praying that by issuing a writ of certiorari or any other writ, order or direction, the order of suspension passed by the D.M.E. (E) Kota on the 10th of June, 1966, and directing to hold a fresh enquiry may be quashed and the respondents may be prohibited to make any further probe into the same charges from which the petitioner had already been exonerated by the judgment of the Civil Court which binds the railway.

2. It appears that after the filing of this writ application, the railway authorities did not proceed with the fresh enquiry, though no order was passed by this Court restraining the respondents to hold any such enquiry against the petitioner.

3. During the pendency of this writ application, it appears that the petitioner,

who was under suspension by virtue of the impugned order of the D.M.E. shifted to Jaipur for further studies. This action of the petitioner was found objectionable by the railway authorities and therefore he was again charge-sheeted, vide Ex. P/8 dated 12/28-2-68 for remaining absent from the headquarters without the permission of his superior authorities but this charge, as is apparent from Ex. P/8, was later on amended by the respondents and a new charge was framed against the petitioner that he was guilty of serious misconduct and did not maintain absolute integrity and cheated the Railway Administration by drawing the suspension allowance during the suspension period for which he was not entitled, to leave the headquarters without permission, and by doing this, he violated the provisions of Para. 2004 of Indian Railways Establishment Code Vol. II.

It may also be mentioned here that the petitioner when he found himself in tight financial circumstances decided to leave the job of the railways and tendered his resignation on 19-1-1968 which date falls prior to the date of the second charge sheet given to the petitioner for absenting himself from the headquarters during the suspension period. Since these subsequent developments were not the subject-matter of the writ petition, the petitioner brought them to the notice of this Court by moving an application dated 24th January, 1969, praying that the respondents may be restrained from making further enquiries in connection with the subsequent second charge sheet.

This Court however did not give any interim relief to the petitioner as prayed for by him as the second charge sheet was not the subject-matter of the writ application. The railway authorities, it appears, proceeded with the enquiry in the second charge sheet and passed an order on the 19th February, 1969, removing the petitioner from service with immediate effect. The petitioner however did not get his writ application amended and challenged this subsequent order of removal but during the course of arguments it was urged by Mr. J. P. Jain that the subsequent enquiry was made by the Railway authorities at the back of the petitioner and no fresh charge sheet was ever served on him.

This Court on 30th of July, 1969, passed an order directing the learned counsel appearing on behalf of the respondents to file reply to the facts mentioned in the application of the petitioner dated 24-1-1969 and also required him to furnish information regarding the fact whether the second charge sheet on the basis of which the petitioner is said to have been removed from service was ever served on him or not. He was also directed that if the second charge sheet was served on the petitioner, then he should give the details about the date of service of that charge sheet. It is regretted to note that the respondents did not care to comply with the orders of this Court dated the 30th of July, 1969.

4. Reply has been filed on behalf of the respondents to the main writ petition in which the facts as mentioned by the petitioner have been virtually admitted by the respondents but contended that the railway authorities had power under Rule 1706(1) to start fresh proceedings on the same charge sheet and to suspend the

petitioner from the date of his dismissal because the dismissal of the petitioner was set aside by the Civil Courts on technical grounds and that the Civil Court had no jurisdiction to hold the dismissal of the petitioner illegal on merits. According to the respondents, by suspending the petitioner after holding another enquiry on the same charge, the respondents were competent and therefore, the petitioner was rightly suspended by Respondent No. 1.

5. Mr. Jain has urged that once the petitioner was exonerated of the charges by a competent Civil Court, the Railway authorities had no jurisdiction or power under any of the rules including Rule 1706 (1) to initiate a fresh inquiry into those very charges, and therefore, the impugned order of suspension passed by the D. M. E. (E) is without jurisdiction. He also urged that any subsequent proceedings based on the illegal order of suspension are also vitiated because the order of suspension was without jurisdiction.

Mr. Sharma appearing on behalf of the respondents on the other hand, contended that if the judgment of the trial Court is carefully scrutinised then it would appear that the trial Court was of opinion while deciding Issue No. 1 that the Enquiry Officer who held the inquiry was not competent to proceed with that enquiry and as such, all the proceedings in the inquiry being null and void because of the incompetence of the Inquiry Officer, vitiated the result of the enquiry, and as such, the judgment of the trial Court on Issue No. 4 was unwarranted and even if that judgment was pronounced by the Civil Court it does not in any way put any fetters on the powers of the competent authorities to initiate a fresh inquiry on the same charge. According to Mr. Sharma if a fresh inquiry was ordered, by the disciplinary authority under Rule 1706(4), the petitioner shall be deemed to have been placed on suspension from the date of his earlier dismissal.

Learned counsel further argued that the judgment of the trial Court which was upheld by the appellate Court is not binding to the extent to which it determines the controversy regarding the dismissal of the petitioner on merits. For subsequent action of the railway authorities Mr. Sharma learned counsel for the respondents urged that under Rule 2004 of the Indian Railway Establishment Code Vol. II, if any person, who is a whole-time employee, of the Railways, leaves the headquarters without permission, he is amenable to the jurisdiction of the disciplinary authority and he can be punished if he has left the headquarters without permission.

6. I will first of all like to decide this question whether the disciplinary authority had the power to institute a de novo enquiry into the same charges for which the petitioner had been exonerated by a competent Court of civil jurisdiction. Mr. Sharma relying on the decision of the Supreme Court in Devendra Pratap Narain Rai Sharma Vs. State of Uttar Pradesh, at the very outset conceded that if the order of the disciplinary authority imposing a penalty on a delinquent servant was quashed by a Civil Court on a preliminary ground, then a de novo enquiry could be ordered by the Railway authorities in respect of the same charges but if

the penalty of dismissal was quashed by the Civil Court on merits, then in that event the disciplinary authority cannot order a fresh enquiry in those very charges. He however submits that in the present case the trial Court while deciding Issue No. 1 had held that the enquiry officer was not competent to hold the enquiry, then even if any decision was given by the Court on merits, it will be taken that the dismissal of the petitioner was set aside by the Court because of the defect of a preliminary nature that vitiated the enquiry and in such circumstances the dismissal shall not be deemed to have been set aside on merits.

7. In order to set this controversy at rest whether the dismissal of the petitioner was quashed by the Civil Court on merits or on account of certain defects of preliminary nature that vitiated the result of the enquiry it will be convenient to take certain facts into consideration. The charge against the petitioner was that he refused to go on the engine because of certain deficiencies reported by the crew, whereas the other members of his crew namely the driver and the first foreman were willing to work the engine even with those deficiencies and it was on account of this refusal of the petitioner that the train had to be cancelled.

The enquiry officer examined during the course of enquiry the driver Dukhiram and the first foreman Chatrulal. Dukhiram in reply to Question No. 13 stated--

"As the repairs on top clack stop cock volve was demanded and also the provision of coal drenching pipe. As both these items were not attended according to my requirement the engine suffered detention in the shed; the train may have been cancelled by the Loco Foreman, the detailed reasons of which I do not know."

In reply to Question No. 21, he deposed before the enquiry officer--

"Myself and my 1st F/man were never willing to work the train up to the time it was actually cancelled."

He also stated that the provision of the coal drenching pipe was insisted upon by him, his Fireman Chatru Ram and Agwala Shikhar Chand (Plaintiff).

8. This deposition of the driver Dukhiram was substantially corroborated by the First Foreman Chatrulal. The petitioner was also examined by the Enquiry Officer. In his statement, the petitioner had stated that he was willing to work only when coal drenching pipe was provided. To substantiate this charge, the Enquiry Officer did not find any other material on the record except the statement of the petitioner himself that he was willing to work only when coal drenching pipe was provided, which according to him meant that the petitioner was unwilling to work or refused to work till the drenching pipe was supplied and therefore, he was found guilty on that score.

The order of dismissal passed by the D. M. E. (E.) does not show the reasons for which the penalty of dismissal was imposed on the petitioner but it can reasonably be inferred that it was the finding of the Enquiry Officer which led him

to believe that the petitioner was guilty of the charge of refusing to discharge his duties and therefore, the services of the petitioner were terminated by him. The order of the appellate authority (Divisional Superintendent) also does not show the reasons for upholding the dismissal in appeal.

When the matter was taken to the Court of law, the Court framed a specific Issue 4(a) & 4(b) on the basis of the pleadings filed before it by the parties. While dealing with the first part of Issue No. 4, the Court relying on the judgments of the Supreme Court in Kaushalya Devi and Others Vs. Bachittar Singh and Others, The Lord Krishna Textile Mills Vs. Its Workmen, and the State of Orissa v. Murlidhar Jena AIR 1963 SC 404 came to the conclusion that if there was any legal evidence on the record on which the finding of the departmental enquiry could be based, then the question whether that evidence was adequate or reliable cannot be gone into by a Civil Court, but their Lordships of the Supreme Court were of opinion that the Civil Court has jurisdiction to interfere with the findings of the Enquiry Officer if the factual inference drawn by the trial Court is not legally permissible but is based purely on a guess or conjecture. In such circumstances the court is competent to set aside the order of dismissal.

9. While dealing with Issue No. 4 (b), the learned Munsiff observed, as follows:

"The remark of the Inquiry Officer.--"Willingness to work only when coal flushing pipe was provided can be reasonably considered as unwillingness or refusal to work" is not a legally permissible inference but was a pure guess or conjecture." On the strength of this pronouncement of the Supreme Court in the above noted cases, the learned Munsiff arrived at the conclusion that the order of dismissal was based on conjectures or guess of the Inquiry Officer. In this view of the findings of the Civil Court, issue No. 4(b) which relates to the merits of dismissal was decided in favour of the petitioner. This finding was further upheld by the appellate Court against which no second appeal was preferred by the Union of India in this Court. That finding of the Civil Court therefore, became final and could not be challenged by the parties to the suit till it was set aside by the competent Court authorised under the law to quash it.

10. In the light of these facts, I have now to consider the objection of learned counsel for the respondents whether the judgment of the trial Court can be construed as a judgment setting aside the order of dismissal on merits or the dismissal was simply set aside on preliminary objection. It is true that while deciding Issue No. 1 which relates to the competence of the Inquiry Officer, the trial Court came to the conclusion that the person who was deputed to enquire into the charges levelled against the petitioner was not competent and therefore, the inquiry was illegal; but the learned Munsiff went on to decide all the issues that were framed by him even though he could have set aside the order of dismissal on the finding of Issue No. 1 alone. In view of this fact that the learned Munsiff decided all the issues in the suit relating to the technical defects in the conduct of the enquiry and also touching the merits of the dismissal on facts, can it be said that the dismissal in such circumstances has been set aside only on

preliminary points and not on merits and therefore after this judgment was pronounced by the Civil Court the Railway authorities were still competent to re-open the issue and order a fresh enquiry on the same allegations which have been once adjudicated by a competent Court of civil jurisdiction?

11. This matter that if the final decision in any case is given by a Court and that decision rests on consideration of more than one point -- each of which by itself would be sufficient for the ultimate decision of that case; then the decision on each one of those points would be binding on the parties to the litigation is not in controversy now (See Abdul Majid Vs. Province of Bihar, and Annamalai Chettiar Vs. Lakshmanan Chettiar, The Supreme Court has finally set at rest this controversy by pronouncing its judgment in Vithal Yeshwant Jathar Vs. Shikandarkhan Makhtumkhan Sardesai, wherein their Lordships observed:

"It is well settled that if the final decision in any matter at issue between the parties is based by a Court on its decision on more than one point each of which by itself would be sufficient for the ultimate decision -- the decision on each of these points operates as *res judicata* between the parties."

In view of this state of law of the land, I do not find any escape from the conclusion that by disposing of issue No. 4, the Civil Court had decided the dismissal of the petitioner on merits as illegal which finding binds both the parties to the suit equally.

In my opinion, the respondent Union of India cannot wriggle out of that position by saying that the dismissal was and could be set aside merely on a technical error that the enquiry officer was not competent to hold the enquiry and therefore, decision on merits could be overlooked by the Union of India as no decision of the Court. The finding of a Court regarding the merits of the dismissal bound the railway authorities and they could not annul that finding by one stroke of pen by saying that the order of dismissal was liable to be quashed on a technical defect which went to the root of the matter. The position taken by the railway authorities in ignoring the judgment of the Civil Court is wholly untenable and I am definitely of the opinion that after the judgment of the Civil Court the authorities were left with no alternative but to reinstate the petitioner. The order passed by the D.M.E. to hold fresh enquiry on the same charges stands in callous disregard of the Railway officer towards the pronouncement of the Court of competent jurisdiction. 12. This Court In Dwarkachand Vs. State of Rajasthan, has laid down the law in clear terms whether second enquiry is permissible when once the delinquent officer has been exonerated in the departmental enquiry. Their Lordships in this Court observed, as follows:--

"On a careful consideration, therefore, of the entire matter, we are of the opinion that once a departmental enquiry is over and a public servant has been exonerated, no second departmental enquiry on the same facts can be ordered unless there is a specific provision for reviewing an order of exoneration of this kind in the Service Rules or any law to that effect."

In that case, the learned Judges discussed this question from all aspects and have also considered the theory of the pleasure of the Governor or the President of India as embodied in Article 310 of the Constitution.

Their Lordships while discussing the question that the Government servant, holds office during the pleasure of the Governor, made certain observations placing reliance on what has been said by their Lordships of the Privy Council in AIR 1937 31 (Privy Council) in connection with the scope of Section 96B of the Government of India Act, 1935 (a provision analogous to Article 309). In the above referred case, their Lordships have laid down that the pleasure of the Governor shall be exercised in accordance with the rules framed under Article 309, and not arbitrarily or capriciously.

In this connection, it will be convenient to quote the exact words of the learned Judges--

"We, therefore, come to the conclusion that the "pleasure" mentioned in Article 310 has to be exercised according to law or rules framed under Article 309 or analogous law. If there is no rule or law which lays down that an order exonerating a public servant in a departmental enquiry is open to revision and a fresh enquiry ordered. It is not in our opinion, open to the State to assume such a power on the ground that Article 310 provides, the tenure of public service is at the pleasure of the President or the Governor or on the ground that the State is the master and the public servant is the employee and the master can do anything to his employee."

In the above case the delinquent officer was exonerated by the Collector, Parmer in the departmental enquiry but subsequently the Collector was prevailed upon by the Police authorities to institute a fresh enquiry into the same allegations.

The present case, in my opinion, stands on a higher level because here the exoneration comes from a Court of law and the pronouncement of the Civil Court was unequivocal that the petitioner was penalised purely on conjectures or the guess of the Inquiry Officer. In such circumstances, the matter having been once determined by a competent Court on merits, the dismissal was declared as illegal and the railway authorities were not competent to institute a fresh enquiry in those very charges and put the petitioner again under suspension.

I would like to refer in this connection to a few authorities of other High Courts in India who have fully endorsed the view expressed by the learned Judges in *Dwarkachand Vs. State of Rajasthan*, The learned Judges of the Assam High Court in *Kanak Chandra Bairagi Vs. Superintendent of Police and Others*, and that of the Madhya Pradesh High Court in *The State v. Mansinghrao*, AIR 1958 Madh Pra 413 and *Ramswaroop Sharma, T.T.E. Western Rly. Vs. Div. Comm. Supdt. and Another*, have expressed their complete agreement on this question with the learned Judges of this Court and have taken the view that once a person is exonerated in the departmental enquiry on merits. It will be wrong in the absence of any provision in the Service Rules to permit on the basis of justice,

equity and good conscience a second departmental enquiry on the same charges.

In my opinion, the railway authorities In the present case showed a scant regard to the pronouncements of the Civil Courts which deserved all respects and ordered a fresh enquiry by again putting the petitioner under suspension. Mr. Sharma could not point out any reason which actuated the D. M. E. to behave in such a manner. It appears that the power had gone through his head which compelled him to resort to such vindictive attitude towards the petitioner which not only put the petitioner to harassment but shall ultimately put the department to pecuniary losses if the petitioner chooses to drag the Union of India in further litigation to make good the losses sustained by him because of the patent illegal order of the D. M. E. I may also mention here that neither Rule 1706(1) nor Rule 2004 on which reliance has been placed by Mr. Sharma empowers the D. M. E. to order fresh enquiry and suspend the petitioner for the same charges from which the petitioner has been exonerated from the Civil Court. In these circumstances, the Impugned order of suspension cannot in any way be upheld by this Court.

13. This case presents peculiar circumstances which create difficulty for this Court to grant proper relief to the petitioner. The petitioner has not sought by amending his writ application the quashing of the subsequent order of removal which has been passed by the authorities because the petitioner had left during the suspension period his headquarters without permission. The respondents in spite of the direction issued by this Court have not placed any material on record to show whether the subsequent enquiry was done after giving notice to the petitioner.

The contention of Mr. Jain is that if the order of suspension is declared illegal then any charge arising out of that suspension order would automatically be vitiated and the subsequent order passed for violating the illegal order of suspension would not afford any ground to the respondent to terminate the petitioner's service. The petitioner, as is apparent from the averments made by him in his application dated 24th January, 1969, had tendered his resignation to the Railway authorities In the month of January, 1968, before the second enquiry regarding the charge of absenting himself from the headquarters without permission was actually started by giving a fresh charge to the petitioner. Mr. Jain therefore, urged that a proper relief that can be given to the petitioner in such circumstances would be to set aside the order of suspension and declare that all the proceedings taken by the respondent after suspending the petitioner were illegal.

In my opinion, subsequent enquiry instituted by the Railway authorities against the petitioner for leaving the headquarters during the suspension period would automatically be hit if this Court passes the order that the order of suspension was without jurisdiction. A man who was put under suspension since 1960 and who in spite of the judgment and decree of a competent court was kept under suspension in utter disregard of the binding order of the Court cannot be allowed to be penalised on a pretext that he left the headquarters during suspension

period without the permission of the authorities. It is really strange that no enquiry was really conducted on the charge for which the petitioner was suspended and he was removed from service on a pretext that he left without permission the headquarters during suspension period. Mr. Sharma could not point out to me a rule in the Railway Code under which a person is required to obtain permission for leaving headquarters while he is not required to discharge any duty. The plight of a young man who has become the victim of the caprices of his superior officers and kept out of employment for such a long period in spite of the judgment pronounced in his favour of a Court of competent jurisdiction can very well be imagined by one who possesses human heart.

In my opinion any proceeding which emanate from the illegal order of suspension of the petitioner is vitiated and cannot be allowed to hold the field. In such circumstances the impugned order of suspension is quashed and any proceedings taken against the petitioner which are connected with the order of suspension are also set aside

14. In view of the above discussion, the order passed by the D. M. E. (E), Kota on 10-6-1966 putting the petitioner under suspension with effect from 13-2-1960 is hereby quashed and the Railway Administration is restrained from conducting any enquiry into the charge sheet given to the petitioner contained in Ex. P/1 dated 6-3-1959. Any subsequent enquiry about the conduct of the petitioner which has any relation with the order of suspension shall also stand quashed. It is for the railway authorities to pass proper order on the resignation submitted by the petitioner on 19-1-1968. The petitioner shall get the costs of this petition from the respondents.