

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

(1)

OA No.2155/2001

New Delhi this the 13th day of May, 2002

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)  
Hon'ble Shri V.K.Majotra, Member (A)

Shri G.P.Satsangi,  
Sectional Engineer (W)-II  
Northern Railway,  
Tundla

..Applicant ..

(By Advocate Shri B.S.Maine )

VERSUS

Union of India : Through

1. The General Manager,  
Northern Railway,  
Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
Allahabad (UP)
3. The Divisional Superintendent  
Engineer (II), Northern Railway,  
Allahabad (UP)
4. Shri V.K.Tripathi,  
Divisional Engineer (Track),  
Northern Railway, Allahabad (UP)

..Respondents ..

(By Advocate Shri R.L.Dhawan )

O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J))

This is the second Original Application filed by the applicant, the earlier OA being OA 747/2001 which was disposed of by Tribunal's order dated 26.3.2001 (Annexure R-1 to the counter reply) filed by the respondents.

2. The respondents have taken a preliminary objection that the applicant has suppressed that he has filed the aforesaid earlier OA. We are unable to agree with this

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contention because in Para 7 of the present application, a reference has been made to that OA although the OA number has not been given. It has been stated that the applicant has challenged the order dated 25.1.2001 which was later on withdrawn. This order of the Tribunal is dated 26.3.2001 in OA 747/2001.

3. The relevant portion of the judgement of the Tribunal in OA 747/2001 reads as follows:-

"In our view, no exception can be had to the aforesaid decision of the ADRM/ALD who is a superior authority to the DSE/II/ALD who had passed the earlier order of 6.7.2000 exonerating applicant. Though the order of 25.1.2001 uses the expression, "de novo" it is qualified by adding, "from the stage of enquiry". In the circumstances, further enquiry directed by the aforesaid higher authority after rejecting the report exonerating applicant, cannot be successfully assailed."

In the circumstances, the Tribunal found that there is no merit in the application and the same has to be summarily rejected but at the request of learned counsel for the applicant, it was dismissed as withdrawn.

4. In the present application, the applicant has challenged the validity of the order passed by Shri V.K.Tripathi, Inquiry Officer and Divisional Engineer/rack, Northern Railway, Allahabad dated 13.8.2001 (Annexure A 1). In this order under the subject heading it is written as "fresh D & AR against you". Shri B.S. Maine, learned counsel has submitted that under the provisions of the relevant Railway Servants (Discipline and Appeal) Rules, 1968 the respondents cannot hold a fresh DE after the earlier Inquiry

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Officer, for the same charge, had exonerated the applicant by his order dated 6.7.2002 (Annexure A 5). In the earlier order of the Tribunal dated 26.3.2001 in OA 747/2001 in which a reference has been made to the order dated 6.7.2000 and the order dated 25.1.2001, uses the expression "de novo" is qualified by adding "from the stage of enquiry". The observations of the Tribunal that " further enquiry directed by the aforesaid higher authority after rejecting the report exonerating the applicant cannot be successfully assailed as neither it has been challenged before the Delhi High Court by the applicant nor it has been set aside or quashed. In the circumstances, those observations are binding on us as a co-ordinate Bench. It is clear from the aforesaid order of the Tribunal passed in OA 747/2001 that further enquiry directed by the higher authority is not invalid and can be done in accordance with the relevant law, rules and instructions.

5. In the above facts and circumstances of the case, we find force in the submissions made by Shri B.S.Mainee, learned counsel that the respondents cannot hold a fresh D& AR enquiry against the applicant as proposed in the impugned order dated 13.8.2001. Shri B.S.Mainee, learned counsel has submitted that the enquiry has been pending for a long time. In the circumstances, the impugned order dated 13.8.2001 is quashed and set aside, leaving it open to the respondents to strictly comply with the earlier order of the Tribunal, in accordance with the relevant law, rules and instructions.

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6. In this case it is noticed that the charge-sheet against the applicant has been initiated in December, 1999 and he was earlier exonerated by the order issued by the respondents dated 6.7.2000. Further enquiry has been ordered in July, 2000. In the circumstances of the case, we consider that the respondents should try and complete the pending enquiry against the applicant as expeditiously as possible and in any case within four months from the date of receipt of a copy of this order. We make it clear that the applicant should also fully co-operate with the enquiry so that the final order can be passed by the disciplinary authority without any further delay. No costs.

Majotra

( V.K.Majotra)  
Member (A)

Lakshmi Swaminathan

(Smt.Lakshmi Swaminathan )  
Vice Chairman (J)

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