

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.471/94

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New Delhi this the 17th Day of March, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Sh. A.K. Srivastava, BC/DSA,
Booking Clerk, Delhi Division,
Northern Railway, Railway Station,
Shahdra, New Delhi.

Applicants

(through Sh. A.K. Bhardwaj, Advocate)

versus

1. Union of India,
through the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
DRM Office, Northern Railway,
Delhi Division, Paharganj,
New Delhi.
3. The Divisional Traffic Manager,
DRM Office, Delhi Division,
Northern Railway, Paharganj,
New Delhi.
4. Sh. S.N. Vats, Inquiry Officer,
DRM Office, Delhi Division,
Northern Railway, Paharganj,
New Delhi.

Respondents

ORDER (ORAL)
delivered by Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman

The allegations in this O.A. are these.
Disciplinary proceedings had been initiated against
the applicant who is a railway servant. An enquiry
officer was appointed. After recording evidence,
that officer submitted his report to the
disciplinary authority exonerating the applicant.
The disciplinary authority, without -

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passing any order upon the report submitted by the enquiry officer, issued a fresh set of chargesheet to the applicant and appointed another enquiry officer. That enquiry officer has conducted the enquiry and has submitted his report to the disciplinary authority. The applicant has been given a copy of the report of the second enquiry officer. He has submitted his explanation to that report. The disciplinary authority has not passed any final order so far.

The contention advanced in support of this application is that the disciplinary authority in issuing a second chargesheet to the applicant and in appointing a fresh enquiry officer acted without jurisdiction. Reliance is placed by the counsel upon Rule 10(2) of the Railway Servants (Discipline and Appeal) Rules, 1968 and also upon a decision of the Madras Bench of this Tribunal in the case of L. David versus Union of India (1990 Vol. 14 ATC 590). It is urged that we should quash the second set of disciplinary proceedings at this stage and restrain the disciplinary authority from passing any order upon the fresh report of the enquiry officer.

We are not inclined to interfere at this stage. The applicant should have approached this Tribunal earlier. We direct the disciplinary authority to look into the grievance of the applicant as mentioned in this order and also examine the afore-said decision of the Madras Bench of this Tribunal and thereafter pass an order containing reasons. The disciplinary authority, if he decides against the applicant, shall record reasons as to why he did not give his decision upon the report of the first enquiry

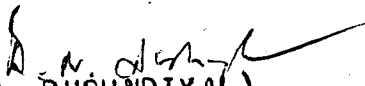
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officer and also in what circumstances he had issued a fresh set of chargesheet and appointed a fresh enquiry officer. He shall also record his finding. While doing so, he shall act legally.

It goes without saying ^{that} if a decision goes against the applicant, it will be open to him to prefer an appeal to the appropriate authority and thereafter come this Tribunal, if necessary.

With these observations, this application is dismissed summarily.


(B.N. DHOUNDIYAL)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN

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