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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH; NEW DELHI

O.A.NO.1924/94

New Delhi, this the 7th day of October, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

Shri Jagan,  
s/o Shri Durga,  
Gangman Under PWI (II),  
Northern Railway, Ghaziabad.

.... Applicant

By Advocate: Shri B.S. Mainee

Vs.

1. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

2. The Division Superintending Engineer (1)  
Northern Railway, D.R.M. Office,  
State Entry Road,  
New Delhi.

3. The Assistant Engineer,  
Northern Railway,  
Ghaziabad.

.... Respondents

By Advocate: None

ORDER

Hon'ble Shri J.P. Sharma, Member (J)

The applicant who is a Gangman in the Railway has been served with a memo. of chargesheet dated 15.2.94. The charge against the applicant is that he is involved in a murder case of his sister-inlaw Smt. Chandra. The deceased is a wife of the elder brother of the applicant. On the basis of FIR u/s 302 against the applicant, he was arrested on 10.7.93. He was placed under

suspension by the order dated 29.7.93. In the aforesaid chargesheet, it is alleged that the applicant has committed breach of rule 3(1) of the Railway Service Conduct Rules, 1966. The enquiry proceedings have come to an end and Shri R.P. Kohli, PWI, Ghaziabad has submitted the report of the enquiry to the disciplinary authority. At this stage the applicant apprehending that any order may pass against him filed this application that the impugned chargesheet be quashed and the oral order issuing the subsistence allowance of the applicant and for making recovery be also quashed.

2. We heard the learned counsel at the admission stage. In this case the ground taken for assailing the order that the chargesheet served upon the applicant is vague. The learned counsel has also referred to the case of Raj Kumar Singh Vs. UOI reported in ATR 1992(1) 128 and another case ATR 1992(1) 179 and also 1992(2)SLJ CAT 68 on the point that if the chargesheet is vague, the same has to be quashed. In fact the scope of judicial review by the Tribunal in examining the correctness of the charges is beyond its jurisdiction at the stage of the framing of the charges by the department. The department can itself frame the charges and the Tribunal cannot go into the correctness of those charges at the initial stage. The matter came up before Hon'ble Supreme Court in the case of UOI Vs. Bhupinder Singh reported in 1994(2)ATC 200 that was a case where the Tribunal has stayed the departmental enquiry against Respondent Shri Bhupinder

Singh for any alleged misconduct in the discharge of his quasi judicial function. The Hon'ble Supreme Court set aside the order of the Tribunal and held that the scope of the judicial review is limited. The Hon'ble Supreme Court has also considered the case of UOI Vs. J.N. Saxena reported in 1992(3)SCC 124 and UOI Vs. K.K. Dhawan 1993(2)SCC 56. Thus, it is established law that the scrutiny of the chargesheet cannot be taken up by the Tribunal as to whether it is correct or not.

3. The decision in O.A.3052/91 decided by the Principal Bench is in the facts of that case and do not apply to the facts of the present case because in this case the enquiry almost has been completed and the Inquiry Officer has also submitted his report to the disciplinary authority. The applicant has asked for Interim Relief that the respondents be restrained from passing any order on the report of the Inquiry Officer and communicating the same to the applicant. It goes to show that almost the proceedings of the departmental enquiry are complete and only disciplinary authority has to pass an order. The applicant cannot come at this stage without exhausting the departmental remedy in case his apprehension that order will be passed against him comes true. The application is, therefore, totally premature and does not make out a prima-facie case for admission. The application is therefore dismissed at the admission stage.

*B*  
(B.K. SINGH)  
MEMBER(A)

*J.P. SHARMA*  
(J.P. SHARMA)  
Member(J)