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In the Central Administrative Tribunal

Principal Bench: New Delhi

OA No. 66/87

Date of decision: 27.07.1992.

Ram Avtar

...Applicant

Versus

General Manager, Northern Railway & Ors. ...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman

The Hon'ble Mr. I.K. Rasgotra, Administrative Member

For the applicant : None

For the respondents : None

Judgement(Oral)

(delivered by Hon'ble Mr. Justice V.S. Malimath, Chairman)

None appeared either for the applicant or for the respondents. As this is a very old case we consider it appropriate to look into the records and dispose of this case on merits.


2. This Application was filed on 14.1.1987, praying for quashing the disciplinary inquiry initiated on the basis of the chargesheet dated 9.1.1986 and the punishment imposed on the basis of the disciplinary proceedings initiated on the basis of the said charge-sheet and for other consequential reliefs.

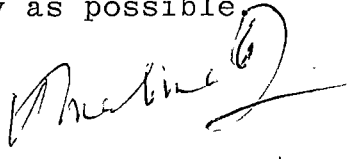
3. From the reply filed in this case it transpires that the applicant did not cooperate and an ex-parte inquiry appears to have been held against him. The applicant has not produced the copy of the order, imposing penalty on him. He has challenged the disciplinary proceedings initiated on the basis of the chargesheet dated 9.1.1986, without actually producing the copy of the final order.

In the reply it is stated that final order was made on 7.1.1987, imposing the penalty of removal from service with effect from 8.1.1987. Copy of the said order is also produced alongwith the reply. An objection was also raised in the reply filed in respect of the interim relief that the Application is not maintainable, the applicant not having exhausted the statutory remedies by way of appeal available to him under Rule 18 of the Railway Servants (Discipline & Appeal) Rules, 1968. It is stated in the reply that after such an objection was raised at the time of considering interim relief the applicant has availed of the statutory remedy of appeal by presenting a memo of appeal on 19.2.1987. It is stated in the reply that the very same grounds which have been raised in these proceedings have already been raised in the said appeal. They say that the said appeal would be duly considered by the appellate authority in due course in accordance with law. They have raised the plea that the present Application is pre-mature and is also barred by Section 20 of the Administrative Tribunals Act, 1985, the applicant having approached the Tribunal without availing of the statutory remedies available to him. There is no good reason why we should not accept the statement of the respondents that the applicant having since filed an appeal, available under the statute the same will be examined by the appellate authority. It is likely that the appeal has not been disposed of for the reason that these proceedings were pending before the Tribunal. As there is a statutory remedy by way of appeal there is no good reason why we should entertain this Application before the said remedy is exhausted.

4. For the reasons stated above, we decline to interfere in these proceedings and direct the respondents to consider the appeal filed by the applicant and dispose it of in accordance with law, as expeditiously as possible.

No costs.


(I.K. Rasgotra)
Member(A)


(V.S. Malimath)
Chairman

July 27, 1992.

skk