

(A)

Central Administrative Tribunal  
Principal Bench  
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O.A. No. 1664/91

New Delhi, this the 19th October, 1995

Hon'ble Dr. R.K. Saxena, Member (J)  
Hon'ble Sh. K. Muthukumar, Member (A)

K.L. Kapoor,  
Retired Dy. Chief Engineer,  
Northern Railway,  
s/o Shri Ram Rekha Mal Kapoor,  
aged 55 years, R/o B-2/94,  
Safdar Jung Enclave, New Delhi.

Applicant

(By Advocate Shri R.K. Kamal)

Versus

Union of India through

1. The Secretary,  
Railway Board,  
Rail Bhawan,  
Rafi Marg,  
New Delhi-1.

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

Respondents

(By Advocate Shri P.S. Mahendru)

ORDER ( Oral )

By Hon'ble Dr. R.K. Saxena, Member (J):

This O.A. was filed by K.L. Kapoor, Retired Dy. Chief Engineer challenging the framing of the memorandum of charges dated 2.11.1989, appointment of the Inquiry Officer vide order dated 12.6.1991 <sup>and the</sup> rule 2(c)(ii) of the Railway Servants (Discipline & Appeal) <sup>the facts are</sup> Rules, 1968 and their quashment. Briefly stated that the applicant was served with memo of charges (Annexure A-3) in which it was alleged that while he was functioning as Dy. Chief Engineer, he showed utter

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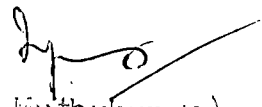
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lack of integrity, devotion to duty and acted in a manner unbecoming of a railway servant. He was required to submit his reply within ten days. The General Manager had also passed <sup>an</sup> order dated 12.6.1991 whereby Ms S. Mazumdar was appointed as Inquiry Officer. The framing of the memo of charges and appointment of Inquiry Officer coupled with the constitutionality of rule 2(c)(ii) of Railway Servants(Discipline & Appeal) Rules, 1968 <sup>has</sup> been sought to be quashed by filing this O.A.

The respondents contested the case by justifying the grounds on which the memo of charges was served on the applicant. The question of unconstitutionality of the rule <sup>as prayed, &</sup> was challenged by the respondents.

This case is pending for disposal finally. Today Shri R.K. Kamal counsel for the applicant and Shri P.S. Mahendru counsel for the respondents appeared. Shri Kamal contends that the applicant wants to withdraw the O.A. with liberty to file fresh O.A., if need be. He further contends that the enquiry was concluded and the copy of the report of the Inquiry Officer who did not hold the applicant guilty, has been <sup>served on the applicant &</sup> furnished along with show cause notice. In such a situation, he thinks that there may not be any likelihood of punishment being awarded but in case the disciplinary authority comes to the conclusion of taking a different view then atleast the interest of the applicant may be protected.

We, therefore, allow the withdrawal of the O.A. with permission to approach the Tribunal afresh, if need be. The O.A. is, therefore, dismissed as withdrawn..

  
(K. Muthukumar)  
Member (A)

  
(Dr. R. K. Saxena)  
Member (J)