

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.2066/2004

This the 26th day of August, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Shru Vipin Kumar, S/O Ram Bhajan,
Call Man,
Under Loco Shed,
Northern Railway,
Moradabad..

... Applicant

(By Shri B.S.Maine, Advocate)

versus

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Moradabad.
3. The Assistant Mechanical Engineer (I),
Northern Railway,
Moradabad .

... Respondents

(By Shri Rajinder Khatter, Advocate)

ORDER(Oral)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

Applicant has challenged Annexure A-1 dated 22.7.2004 whereby enquiry officer has been appointed in disciplinary proceedings against him. The earlier enquiry was quashed by this Tribunal vide order dated 9.9.1999 in OA No.2302/1995 by giving liberty to respondents to hold further enquiry. After holding disciplinary proceedings the charges were dropped vide order dated 27.3.2002 but the consequential benefits like fixation of pay, back wages, seniority and promotion were not allowed. Applicant then filed OA No.247/2004

which was disposed of vide orders dated 30.1.2004 directing the General Manager, Northern Railway to consider applicant's representation by passing a speaking order regarding the aforesaid consequential benefits. It is alleged that the General Manager instead of directing respondents to deal with the case of applicant for grant of annual increments, back wages, seniority and promotion in accordance with rule 1343 of the Indian Railway Establishment Code Volume-II, directed them to hold allegedly a fresh enquiry which is stated to be impermissible under the rules and law.

2. Learned counsel of both sides have stated that OA-1503/2004 (Ramesh Kumar Vs. Union of India and Others) in which similar facts and issues were involved has been partly allowed vide order dated 22.8.2005 and the present OA can also be similarly partly allowed.

3. The directions in the aforesaid case are as follows:-

"10. In the light of the above discussion, the OA is partly allowed quashing Annexures A-1 dated 31.5.2004 and R-II dated 29.4.2004, directing the General Manager to pass fresh orders permitting appointment of another enquiry officer only if the same enquiry officer who had earlier held the enquiry is not available for some good reason. It is further directed that in case the documents in terms of Tribunal's orders dated 2.9.1999 and 15.12.2003 in OA No.2048/1995 and OA No. 3024/2003 are not available, the enquiry shall abate forthwith. However, if they are made available to applicant, then the defence witnesses asked for by applicant shall be examined and the enquiry shall be completed within a period of four months from the date of communication of these orders. It is further held that applicant shall be entitled to all wages and consequential benefits from the date of reinstatement in view of the inordinate delay caused in implementing the directions of this Court contained in orders dated 2.9.1999 and 15.12.2003".

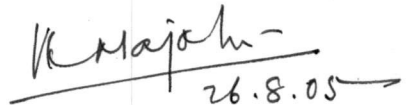
4. Accordingly, this OA is also partly allowed quashing the impugned orders (Annexures A-1 dated 22.7.2004 and A-2 dated 19.5.2004), directing the General Manager to pass fresh orders permitting appointment of another enquiry officer only if the same enquiry officer who had earlier held the enquiry is not available for some good reason. It is further directed that in case the documents in terms of Tribunal's orders dated 9.9.1999 and 30.1.2004 in OA No.2302/1995 and OA No.

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247/2004. respectively are not available, the enquiry shall abate forthwith. However, if they are made available to applicant, then the defence witnesses asked for by applicant shall be examined and the enquiry shall be completed within a period of four months from the date of communication of these orders. It is further held that applicant shall be entitled to all wages and consequential benefits from the date of reinstatement in view of the inordinate delay caused in implementing the directions of this Court contained in orders dated 9.9.1999 and 30.1.2004.



(Meera Chhibber)
Member (J)


26.8.05

(V. K. Majotra)
Vice-Chairman (A)

cc.