

25

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

R.A. NO. 75/2006
IN
O.A. NO.2068/2004

New Delhi, this the 5th day of June, 2006

**HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)**

Shri Jaidev,
S/o Shri Natha,
Call Man, Northern Railway,
Bareilly

...APPLICANT

VERSUS

Union of India : Through

1. The General Manager,
Northern Railway,
Baroda House, New Delhi
2. The Divisional Railway Manager,
Northern Railway,
Moradabad
3. The Assistant Mechanical Engineer (III),
(Shri Rajesh Kumar)
Northern Railway,
Moradabad

...RESPONDENTS

O R D E R (By Circulation)

BY MUKESH KUMAR GUPTA, MEMBER (J):

By the present Review Application, applicant seeks review and recall of an oral order dated 06.03.2006 disposing of OA No.2068/2004 with following directions:-

"As far as the powers exercised by General Manager to remand the matter to hold "further proceedings" is concerned, we may note and observe that no attempt was made to dis-lodge the said order. In any case, on examination of the matter, keeping in view the rule position as well as the facts noticed hereinabove, we find no infirmity

f

26

in the said order dated 03.06.2004. As far as the appointment of Shri Javed Iqbal vide order dated 22.7.2004, as Enquiry Officer is concerned, it needs to be clarified. Following order in Ramesh Kumar (supra), we hold that the respondents should pass a specific order indicating whether the same Enquiry Officer, who had earlier held the enquiry into the departmental proceedings initiated vide memorandum dated 26.10.1994, is available for some good reasons or not. If the said Enquiry Officer is available, enquiry shall be conducted by the same Enquiry Officer. In the absence of said Enquiry Officer available now, the respondents would be at liberty to proceed with further proceedings. We make it clear that the evidence already brought on record would not be wiped out, and would have to be considered in addition to the evidence and material now sought to be added, particularly in terms of Tribunal's aforesaid order dated 31.8.1999. The respondents are accordingly directed to pass the orders as required hereinabove within a period of two months from the date of receipt of a copy of this order. Since the departmental proceedings in the present case were initiated in the year 1994, respondents would be well advised to conclude the said proceedings within a period of six months from the date of receipt of a copy of this order. The applicant is also directed to fully cooperate with the authorities. In the facts and circumstances of the present case, we do not find any justification for either treating the period of removal till the date of reinstatement as spent on duty or to give all consequential benefits, as prayed for. These aspects would have to be regulated upon conclusion of disciplinary proceedings initiated against the applicant. The interim order dated 26.8.2004 restraining the respondents from proceedings into the enquiry, is accordingly vacated.

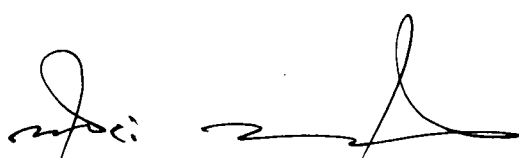
12. In view of the discussion made as well as directions issued hereinabove, the present OA is disposed of. No costs."

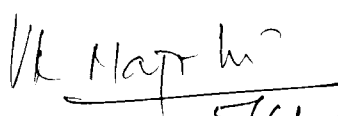
2. The ground urged in support of the contention raised is that there appears to be an error apparent on the face of record inasmuch as though the Tribunal followed its earlier judgments in **Ramesh Kumar vs. Union of India & Ors, Vipin Kumar vs.**

2

21

Union of India & Ors. and Vinod Kumar vs. General Manager & Ors, but it did not grant the same relief which led to individual discrimination, which is impermissible in law. We have carefully perused Para-5 wherein such alleged distinction is sought to be drawn between the judgments relied upon and the order passed in the present case. On perusal of the same and bestowing our careful consideration, we do not find any such distinction. Following its earlier judgements cannot mean that the order has to be worded in the same fashion as of earlier judgements. What has to be seen is to be the substance and purport of the order. Examining the case in hand from this angle, we find that the purport of the order and the ratio laid down by this Tribunal in its earlier judgments has been duly recognized and followed while recording the findings in the Order of the case in hand. Therefore, we find no error apparent on the face of record in the order dated 06th March 2006. Accordingly, RA is dismissed in circulation.


(Mukesh Kumar Gupta)
Member (J)


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

/PKR/