

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.757 OF 1996
ALLAHABAD THIS THE 2ND DAY OF JANUARY,2003

HON'BLE MR. S. DAYAL, MEMBER-A
HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

Surendra Nath Dubey,
Son of Shri Vindhyaachal Dubey,
Senior Cashier,
North Eastern Railway,
Gorakhpur.

..... *Applicant*

(By Advocate : Nil)

Versus

1. Union of India,
through General Manager,
N.E.R., Gorakhpur.

2. Smt. Shushma Pandey,
Financial Advisor and
Chief Accounts Officer N.E.R.,
Gorakhpur.

3. Sri Ramadhar Gupta,
Chief Cashier,
N.E.R.,
Gorakhpur.

..... *Respondents*

(By Advocate Shri K.P. Singh)

ORDER

HON'BLE MR. S. DAYAL, MEMBER-A

This application has been filed for setting aside order dated 07.06.95 and 08.08.95 and also order dated 21.07.1995 and 07.12.1995. A further direction has been sought to the respondents to provide a fresh inquiry report and findings to the applicant for making his representation against the inquiry report.

2. The applicant claims that he was proceeded against for temporary shortage of cash found to the tune of Rs.38257-49 paise only. The inquiry proceedings against the applicant concluded on 10.02.1995 and the inquiry report was submitted alongwith findings. The respondents instead of furnishing

the copy of the inquiry report and findings to the applicant, appointed another inquiry officer on 07.06.1995 without disclosing the reasons. The applicant has claimed that since no final orders were passed after enquiry officer gave the enquiry report, he gave application to the disciplinary authority in response to which order was passed on 21.07.1995 treating the previous enquiry report and findings as deficient and remitting the case for "fresh inquiry" under Rule 10 (2) of D.A.R. Rule 1968. Another order was issued on 08.08.1995 appointing another inquiry officer. The applicant's appeal dated 01.08.1995 was rejected by order dated 07.12.1995 maintaining the stand of the respondent in letter dated 07.06.1995 and 21.07.1995.

3. We have heard the arguments of Shri K.P. Singh, learned counsel for the respondents. Learned counsel for the respondents has placed before us an order dated 21.07.1995 which reads as follows:-

"Your representation has been considered by the undersigned. Since the enquiry conducted by Shri R.S. Saha in connection with the aforesaid memorandum of charge was found deficient in as much as that the inquiry was concluded and report was submitted without taking the relied upon documents on record of the inquiry and without evaluating the same while preparing the inquiry report and, therefore, the case was remitted for fresh inquiry appointing Shri Ram Kamal, EI/DA as E.O. in terms of Rule 10(2) of DAR Rules, 1968."

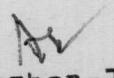
4. The learned counsel for the respondents relied upon Rule 10 (2) of the Railway Servant Disciplinary Appeal Rules 1968 and has contended that disciplinary authority is authorised to remit the case to the inquiry officer and further report of the inquiry authority is required to hold further inquiry according to the provisions of Rule 9. The learned counsel for the respondents stated that the impugned order dated 21.07.1995 shows that inquiry conducted by the inquiry office

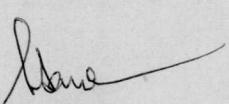
was deficient as the report of inquiry did not consider taking on record & relied upon documents and evaluating them while preparing the inquiry report.

5. We have considered the plea of the respondents and we find that order dated 21.07.1995 authorises a fresh inquiry, although the intention of the respondents as per the plea taken by the learned counsel for the respondents was to hold further inquiry.

6. The order relating to the fresh inquiry on 21-07-1995 cannot be sustained and is to be set aside. However, the respondents are allowed to proceed against the applicants from the stage to be mentioned in a fresh order regarding further inquiry mentioning the stage from which the further inquiry is to be undertaken. The O.A. stands disposed of with the above directions. Any further inquiry, if any, shall be held by the respondents within two months from the date of receipt of a copy of this order.

7. There will be no order as to costs.


Member-J


Member-A

/Neelam/