

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

D.A. No. : 1224 of 1999.

T.A. No. :

DATE OF DECISION:

27. 11. 99.

Chandra Bhushan Rai & ors. PETITIONER.

Sri S.C. Banerjee

ADVOCATE FOR THE

PETITIONER.

VERDICT

Union of India & ors. RESPONDENTS.

ADVOCATE FOR THE

RESPONDENTS.

QUESTION

The Hon'ble Mr. Justice B.C. Saksena, V.C.

The Hon'ble Mr. D.S. Bawej, Member (A)

1. whether the orders of loc 1 and 2 may be allowed to see the Judgement?
2. to be referred to the Reporter ~~or not?~~ yes
3. whether their Lordships wish to see the fair copy of the Judgement?
4. whether to be circulated to all other Bench?

B.C.

SIGNATURE

HANDBY/

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

O.A No. 1224/97

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. D.S. BAWEJA, MEMBER (A)

1. Chandra Bhusan Rai son of Sumer Rai aged about 42 years.
2. Satya Prakash Singh son of Ram Pati Singh, aged about 39 years.
3. R.K. Singh, son of late H.N. Singh, aged about 39 years.
4. N.K. Mishra, son of S.D. Mishra, aged about 47 years.
5. A.K. Rai son of Deokinandan Rai aged about 47 years.
6. R.P. Singh son of Ram Govind Singh, aged about 45 years.
7. Prakash Narain son of Pancham Ram aged about 40 years.
8. Mohd. Anwar Farooqi son of M.A. Farooqi aged about 42 years.
9. R.D. Singh, son of R.K. Singh, aged about 57 years.
10. S.F. Husain son of S.A. Hasan aged about 36 years.
11. R.S. Srivastava son of late R.P Lal aged about 39 years.
12. R.P. Sinha son of S.K. Sinha aged about 46 years.
13. Ramesh Chandra Yadav son of M.C. Yadav aged about 27 years.
14. Raj Nath Yadav son of Sarfoo Yadav aged about 30 years.
15. B.R. M. Singh, son of B.K.N. Singh aged about 47 years.
16. S.S. Hasan son of Shri Hamid Hasan aged about 38 years.
17. Sarad Kumar Srivastava son of Kamleshwari Prasad aged about 30 years.

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18. Satish Kumar Srivastava son of I.M. Srivastava, aged about 38 years.
19. Syed Alam son of S.M. Alam aged about 47 years.
20. Narendra Kumar son of Suresh Pd. Gupta, aged about 40 years.
21. Irfan Ahmad son of late Ekhlaq Ahmad aged about 39 years.
22. Vijayant Kumar Srivastava son of late Gorakhlal aged about 24 years.
23. A.W. Islam son of Abdul Wali aged about 38 years.
24. H. Samad son of M.A. Samad aged about 50 years.
25. S.N. Pandey son of R.K. Pandey, aged about 50 years.
26. Om Prakash son of late Panchoo Bhardwaj aged about 30 years.
27. Anil Khanna son of Triloki Nath Khanna, aged about 41 years.
28. P.C. Sharma, son of Uma Rao Sharma, aged about 40 years.
29. J.K. Ojha son of Rameshwar Ojha aged about 40 years.
30. Karunesh Singh son of Ram Roop Singh, aged about 40 years.
31. Mdan Mohan Tewari son of Dharm Raj Tewari, aged about 45 years.
32. Kashi Nath Prajapati son of Ram Samujh, aged about 32 years.
33. Athar Ali son of Ahid Ali aged about 40 years.
34. Balram Chaubey son of B.R. Chaubey, aged about 48 years.
35. Laxmi Prasad Gupta, son of Raja Ram aged about 56 years.
36. Kanya Lal son of Beni Ram aged about 46 years.
37. Om Prakash Bhardwaj son of late Kanhiya Lal aged about 42 years.

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38. Jawahar Lal son of Ram Swaroop aged about 36 years.

39. Ram Mohan Singh, son of Rama Shankar Singh, aged about 42 years.

40. Suhal Niaz son of late Q.N. Ahmad aged about 34 years. All working as Parcel Clerks in different grades under Station Manager, N. Rly, Varanasi. Applicants.

By Advocate Shri S.C. Banerjee.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.

2. Senior Divisional Commercial Manager, N. Railway Lucknow Division, Lucknow.

3. Station Manager, Northern Railway Varanasi Railway Station of Lucknow Division, Varanasi.

4. Chief Parcel Supervisor of Noerthern Railway Varanasi Station of Lucknow Division, Varanasi.

Respondents.

O R D E R (RESERVED)

HON. MR. JUSTICE B.C. SAKSENA, V.C.

We have heard the learned counsel for the applicant when the case came up for orders as regards admission.

2. The applicants state that they are working as Parcel Clerks in different grades at Varanasi Station of the Northern Railway Lucknow Division. Their grievance is that during the course of duty in different shifts round the clock they are required to acknowledge parcel packages unloaded at the Varanasi Station from different Trains but the respondents, according to the applicants, have neither made any arrangement for taking over charge of the packages unloaded/undelivered by the incoming Parcel clerks nor have introduced any full proof machinery for the safe custody of the packages so as to protect them from theft, pilferage, loss in transit etc.

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3. On the basis of the above averments the applicants have sought issuance of a direction or order restraining the respondents from taking penal action against the applicants for loss of parcel packages only on the ground that the same was unloaded by them as unloading clerk without evolving any rational arrangement for taking and making over charge of the undelivered packages and its safe and proper custody to protect from theft, pilferage and damage which ought to be the responsibility of the respondents before fixing the responsibility on the applicants for any loss of package. The applicants have also sought a direction to be issued restraining the respondents from taking any further action on the charge sheet issued to some of the applicants (copies of which are Annexurs A-7 to A-14).

4. As far as the first relief is concerned, we ~~have~~ ^{had} put it to the learned counsel for the applicants to indicate how such relief can be granted by this Tribunal. The relief essentially is asking for a policy decision and administrative arrangement which is not open to this Tribunal to lay down or direct the respondents. The applicants appear to have made a representation to the Divisional Railway Manager (Commercial) Northern Railway, Lucknow. It appears to have been made in January 97. There is another representation dated 24.3.97 on record. The representations do not seem to have evoked any response.

5. The applicants have also placed on record copy of a D.O. dated 2.2.90 sent by the Senior D.C.S. Northern Railway Lucknow addressed to the Chief Commercial Superintendent Varanasi. The said letter shows that the C.M.I. Northern Railway Varanasi had reported that proper taking over and making over of the packages unloaded at Varanasi (Parcel) Station by the unloading Clerks from different trains in transit are entered in the unloading book but packages are not shifted completely to the different sheds like Local shed, Foreign shed, DLI Shed and for town booking office. It has further been indicated that

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no proper signature is obtained by the outgoing parcel clerks from the incoming parcel clerks. They only enter the number of packages in the graph register and there is no system of taking signature by the incoming parcel clerks with the result that the parcel do not reach respective sheds properly and some of them are lost after unloading at the station and for that reason staff responsibility cannot be fixed. The Senior D.C.S therefore, requested the Chief Commercial Superintendent to issue necessary instructions to the Station Superintendent Northern Railway, Varanasi to arrange proper making over and taking over of packages at Varanasi Station to avoid payment of compensation and to fix the definite responsibility for the loss. The applicants have not indicated whether the Chief Commercial Superintendent had issued any necessary instructions to the Station Superintendent Northern Railway.

6. Since the view we are taking that it is a policy decision which is required to be taken and calls for administrative guidance by the concerned authorities, it is difficult for this Tribunal to adjudicate on this issue or give any directions as prayed for. We may only indicate that if the outgoing parcel clerks obtain signature from the incoming parcel clerks, as was indicated in Annexure A-6, the grievance of the applicants would be mitigated. However, we do not wish to make any further comments, since this is a question which is not open to judicial review and no relief can be granted to the applicants.

7. As far as the second relief is concerned, the applicants have not indicated that after issuance of the charge sheet any order for recovery etc. has been passed. This raises a question for our consideration as to whether the O.A. challenging the enquiry proceedings is premature. We had also put the said question to the learned counsel for the applicant who was unable to indicate any good reason for entertaining this petition for the second relief at a premature stage. The question indicated hereinabove has been

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the subject matter of consideration by two Division Benches, of which one of viz. V.C. was a Member. The said decisions are: (1) Deolal and others vs. Union of India through Secretary Ministry of Railways and others (O.A. No. 1509/93 decided on 25.10.94) and (2) V.K. Jain vs. Union of India through Secretary, Ministry of Defence, New Delhi and others (O.A. No. 272/93) decided in March, 95. After referring to various Supreme Court decisions and decisions of other Benches of the Tribunal, it was held that the O.A. at interlocutory stage of disciplinary proceedings would not be entertainable. It would only lie after final order has been passed in disciplinary proceedings. This petition accordingly deserves to be dismissed summarily on the ground of its being premature and not maintainable at this ^{inter}locutory stage of disciplinary proceedings, as far as the second relief is concerned.

8. As far as the first relief is concerned, as indicated above, it calls for a policy decision and administrativve instructions by the respondents concerned. The matter is not open to judicial review.

9. The O.A. is accordingly fails and is summarily dismissed.

[Signature]
MEMBER (A)

[Signature]
VICE CHAIRMAN

Allahabad Dated: 27.11.97.

Shakeel/