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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

CA 53/05 &

ALLAHABAD THIS THE 20TH DAY OF JANUARY, 2006

HON'BLE MR. D. R. TIWARI, MEMBER-A
HON'BLE MR. K.B.S. RAJAN, MEMBER-J

Brijendra Gopal Agrawal,
Son of Late Ram Gopal Agrawal,
At present resident of M.I.G. 63,
Govindpur Colony, Allahabad (U.P.)

.....Applicant

(By Advocate Shri R.K. Singh and Shri R. K.
Srivastava)

Versus

1. General Manager, North-East Railway,
Gorakhpur.
2. Divisional Railway Manager,
North-East Railway, Izzat Nagar,
Bareilly.
3. Senior Divisional Engineer (I)
(Now, General), North-East Railway,
Izzat Nagar, Bareilly.
4. Board of Enquiry through its Enquiry
Officer, Assistant Town Engineer,
North-East Railway, Izzat Nagar,
Bareilly.

.....Respondents.

(By Advocate Shri Anil Kumar)

ORDER

HON'BLE MR. K.B.S. RAJAN, MEMBER-J

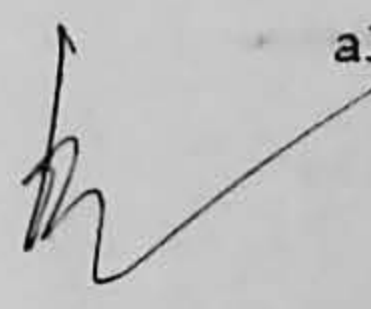
The applicant was served with a charge sheet dated 24.01.2003 when his date of superannuation was on 31.01.2003. As is usually done by the charged officers, he had asked for certain documents, in

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February 2003. It is the case of the applicant that despite repeated reminders the documents were not made available. On 09.08.2004 the Enquiry Officer is stated to have recommended that on the basis of the reply given by the applicant the enquiry be closed. Thereafter the respondents have issued a corrigendum to the charge sheet on 17.12.2004 making certain minor amendments to the charge sheet. The applicant contended that the act on the part of the respondents is thoroughly illegal and, therefore, the charge sheet is bound to be quashed and direction be issued to the respondents to release all the terminal benefits which have been withheld in pursuance of the issue of charge sheet.

2. The respondents have contested the O.A. According to them all the requisite documents have been made available and the amendments to the charge sheet did not change the colour of the charge sheet and the same was independent of Enquiry Officer's communication dated 09.08.2004. The respondents by way of M.A. No.3437/05 have also prayed for deletion of the first respondent namely the Secretary Ministry of Railways, Rail Bhawan, New Delhi.

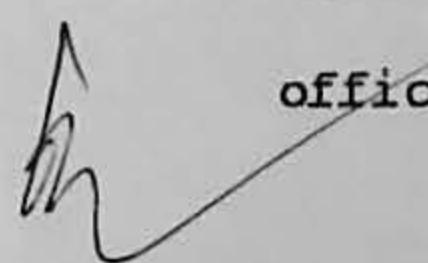
3. Arguments were heard. M.A. No.3437/05 has been allowed.



4. The applicant has challenged the charge sheet but he could not in any way point out any legal lacuna in the issue of charge sheet. His request for supply of documents, as contented by the respondents if already acceded to, the applicant in his own interest should cooperate in the disciplinary proceedings. In case the documents have not been provided, the respondents should not proceed with the enquiry without making available the requisite documents as otherwise Principles of natural justice would get directly violated. The Enquiry Officer shall, therefore, ensure that the documents as required, if found relevant, are made available to the applicant and it is only thereafter that proceedings shall continue.

5. Learned counsel for the applicant has submitted that communication dated 09.08.2004 is in his favour. The applicant is not precluded from relying upon the same in this enquiry proceedings.

6. As the applicant is already retired as early as 31.01.2003 and his terminal benefits have been withheld, the respondents are directed to complete the disciplinary proceedings within a period of four months from the date of communication of this order. It is made clear that if the applicant does not cooperate, the period of four months can be extended. Equally it is made clear that Enquiry officer shall ensure availability of the relevant

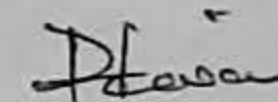


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documents to the applicant, so that he can defend his case effectively.

7. With the above directions, the O.A. is disposed of. No cost.


Member-J


Member-A

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