

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.96/2021

This the 15th day of March, 2021

**COROM : Hon'ble Shri Jayesh V. Bhairavia, Member (J)
Hon'ble Dr. A.K.Dubey, Member (A)**

Ajmer Singh, S/o. Shri Shugan Chand
Male, Aged 42 years
Presently posted as Travelling Ticket Examiner (TTE),
Western Railway, Ahmedabad Division,
Residing at 203, Block 'D' Sai Shardha Residency,
Opp. Uma Party Plot, Motera,
Ahmedabad – 380 005. Applicant.

(By Advocate : Shri B.P.Tanna Senior counsel for Tanna
Associates)

VERSUS

1. Union of India,
(Notice to be served through the
The Chairman,
Railway Board, Ministry of Railways,
Rail Bhavan, New Delhi – 110 001.
2. The Western Railway,
(Notice to be served through
The General Manager,
Western Railway, HQ Office,
Churchgate, Mumbai – 400 020.
3. The Divisional Railway Manager,
Ahmedabad Division,
Opp. GCS General Hospital,
Naroda Road, Near Chamunda Bridge,
P.O. Saijpur Bogha, Ahmedabad – 382 345.
4. The Senior Divisional Commercial Manager,
Disciplinary Authority,
Opp. GCS General Hospital,
Naroda Road, Near Chamunda Bridge,
P.O. Saijpur Bogha,
Ahmedabad – 382 345. Respondents

O R D E R – ORAL

Per : Hon'ble Shri J.V. Bhairavia, Member (J)

The applicant being aggrieved with the Disagreement Note issued by the Disciplinary Authority vide communication No. EC/308/ADI/05/99/2018 dated 17.02.2021 (Annexure A-1) has filed the present OA under Section 19 of the Administrative Tribunals Act, 1985.

2. Learned Senior counsel, Shri B.P.Tanna appearing on behalf of the applicant submits that pursuant to the charge memorandum dated 20.03.2020 (Annexure A-2), the departmental inquiry was held against the applicant. On conclusion of it, the Inquiry Officer submitted his inquiry report on 11.12.2020 (Annexure A-8). In the said inquiry report, the Inquiry Officer had recorded its conclusion findings at para 1 (iii) to the effect that "*Attestation Form which was filed by the CO as stated by PW-2 is not produced during the inquiry by PW-2 and also not attached as RUD in charge memo. Hence, the charge of suppressing information in absence of the related document is not proved.*"

Accordingly, the charge leveled against the applicant was not established. Copy of the said report was supplied to the applicant. However, the Disciplinary Authority did not agree

with the finding of the Inquiry Officer. Therefore, Disciplinary Authority had issued its Disagreement Note dated 17.02.2021.

3. In the said Disagreement Note dated 17.02.2021 by relying upon the documents, which were not part of the Charge Memorandum nor it was produced nor exhibited during the departmental inquiry, the Disciplinary Authority issued Disagreement Note to the inquiry report and called upon the applicant to submit his representation. Learned Senior Counsel Shri B.P.Tanna submits that the said impugned Disagreement Note, therefore, suffers from infirmities and as such, the said is not tenable under the law. Hence, this OA.

4. It is further submitted that the applicant-delinquent requested to the Disciplinary Authority to grant him some more time to file his reply/ representation against the Disagreement Note for the reason that his assistant/ helper is suffering from serious illness and could not prepare his reply. However, the Disciplinary Authority not giving any heed to it, orally directed the applicant to submit his reply latest by today i.e. 15.03.2021. Therefore, learned Senior Counsel appearing for the applicant submits that the Disciplinary Authority is pre-determined not to give sufficient opportunity to the applicant and also determined to impose major penalty upon the applicant. For such

apprehension, the applicant has stated various grounds in this OA. As such, the Disciplinary Authority is required to restrain to proceed further since the Disagreement Note is issued in violation of principles of natural justice, as also contrary to the law laid down by the Hon'ble Apex Court. The Disciplinary Authority ought not to have taken into consideration the documents which were not part of the charge sheet.

5. Considering the aforesaid submissions, in the interest of justice, we dispose of this OA at the admission stage itself with a direction to the Disciplinary Authority to grant adequate time to the applicant, preferably three weeks time from today, to respond to the Disagreement Note dated 17.02.2021 (Annexure A-1) and on receipt of the reply of the applicant, consider the same in accordance with the materials on record with respect to the charges sheet dated 20.03.2020 (Annexure A-2).

6. With the above said directions, the OA stands disposed of. No order as to costs.

7. Registry is directed to send copy of this order to the counsel for the applicant.

(A.K.Dubey)
Member (A)

(J.V.Bhairavia)
Member (J)

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