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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 21st day of April, 1997

Original Application No. 1694 of 1993

District : Meerut

CORAM :-

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

Hon'ble Mr. S. Das Gupta, A.M.

Lakhi Ram Son of Birbal Singh,
Diesel Driver Northern Railway,
Meerut.

(By Sri V.K. Burman, Advocate)

..... Applicant

Versus

1. Union of India, Ministry of Railway,
New Delhi.
2. General Manager, Northern Railway,
New Delhi.
3. D.R.M., Northern Railway,
New Delhi.
4. Senior Loco Inspector, Northern Railway,
Meerut & Enquiry Officer.

(By Sri Lalji Sinha, Advocate)

..... Respondents

ORDER

By Hon'ble Mr. S. Das Gupta, A.M.

The applicant in this case was working as Diesel Driver at the Meerut City of the Northern Railway. On 17-10-1992, he was driving a D.M.T. Special Goods Train from Meerut Cantt. This train dashed against a truck near the level crossing gate as a result of which the Truck Driver was killed. An FIR was lodged at Khugja ^{a criminal} City Police Station following which ~~Case~~ ^{1.P.C.} 279/337/304-A and 175 Indian Railway Act was registered.

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While the investigation in the criminal case was going on, a departmental proceeding was initiated against the applicant, who was served with a charge memo dated 13-5-1993. The Inquiry Officer was appointed. The applicant made oral and written request with ~~with~~ the respondents to stop the departmental inquiry as the criminal investigations were pending. It is alleged that despite this request the respondents were continuing with the inquiry. The applicant, therefore, had approached this Tribunal through this OA filed under Section 19 of the Administrative Tribunals Act, 1985, praying that the departmental inquiry initiated against him be stayed till the disposal of the criminal case, on the ground that otherwise his defence in the criminal case would be ~~jeopardised~~ ^{prejudiced} and he would be exposed to double jeopardy.

2. The applicant subsequently filed an amendment application to make certain additional averments of factual nature. This amendment was allowed and incorporated in the OA. Through this amendment, the applicant sought to exculpate himself of any responsibility for the accident and tried to cast the blame for the accident on various other functionaries.

3. The respondents have filed a counter affidavit, in which they have sought to refute the various averments in the amendment application and to establish that the applicant was responsible for the accident. It has been stated that there was a *prima facie* case for taking action against the applicant and also Sri Farid Uddin, Asst. Driver, as they were only found responsible for causing accident by the inquiry committee.

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4. The applicant has filed a rejoinder affidavit in which he has reiterated that how he was not responsible for the accident.

5. We have heard learned counsel for both the parties and perused pleadings on record. From pleadings of both the parties, it appears that the following accident at one of the railway crossing gates, a preliminary inquiry was held and the applicant alongwith another were found to be prima facie responsible for the accident. The applicant was accordingly served with a charge sheet. The inquiry into the charges, however, could not proceed and an interim order was passed by a Bench of this Tribunal dated 8-3-1994 directing the respondents not to proceed with the departmental action. It is not the case of the applicant that the charge sheet was issued by an authority which is not competent to do so. The only case of the applicant is that he was not responsible for the accident and, therefore, no proceedings should have been initiated against him. He has sought to put the blame on the various other functionaries, and on the basis of such pleadings he would like this Tribunal to hold that no case has been made out against the applicant and the accident is a matter where there is collective responsibility of the Asst. Station Master, Gatekeeper, Guard, Assist. Driver and the Driver and only one person cannot be proceeded against leaving the others scot free. He has also prayed that the departmental inquiry be stopped till the disposal of the criminal case.

6. We have carefully considered the aforesaid pleas of the applicant. In the case of Union of India vs. Upendra Singh, JT 1994(I) S.C. 658, it was held by the Hon'ble

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Supreme Court that there should be no interference by the courts/tribunals at the charge sheet stage by assessing the merit of the charges levelled. Such view has consistently been taken in all subsequent cases of which mention can be made of Union of India and another Vs. Ashok Kacker, 1995 SCC (L&S) 374.

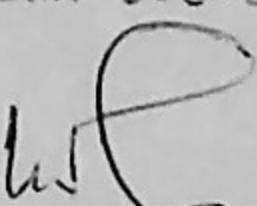
7. In view of the repeated authoritative pronouncement by the Hon'ble Supreme Court that the courts/tribunals should not interfere at the stage of charge sheet unless imputation of charge itself does not constitute any misconduct, we are not inclined to interfere in the instant case. It is clear from the charge sheet served on the applicant that imputation does constitute *prima facie* misconduct and, therefore, in accordance with the provisions of the disciplinary rules, an inquiry should be held into the charges in which the applicant should be given a reasonable opportunity to defend himself. The various points raised by him in the original application can well be taken in his defence before the Inquiry Officer and the disciplinary authority. This point can also be raised in case any petition is subsequently filed challenging any order passed by the disciplinary authority on completion of the proceedings. We cannot, however, at this stage consider the points raised on merit in view of the law laid down by the Hon'ble Supreme Court.

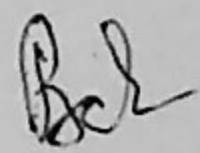
8. As regards the plea that the departmental proceedings should be kept in abeyance pending investigation ⁱⁿ ~~of~~ the criminal proceedings, the Hon'ble Supreme Court has held in the leading case of Kusheshwar Dubey Vs. Bharat Coking Coal Ltd., and Ors, AIR 1988 S.C. 2118 that there is no legal bar on simultaneous proceedings with the departmental action when criminal case on a similar fact is pending in a

court. However, it was also held in that case that whether or not such proceeding should be held simultaneously would depend on the facts and circumstances of each case.

9. There is force in the plea that when a criminal proceeding is pending against a Government servant, departmental proceedings on similar charges should be kept in abeyance as the disclosure of defence in the departmental proceedings may prejudice his defence in the criminal case. The applicant, however, has not filed a copy of the charge sheet in that criminal case. He has only filed a copy of the FIR. We are, therefore, unable to assess whether the charges in the departmental inquiry and those in the criminal case are similar. We are, therefore, unable to direct that the departmental proceedings be kept in abeyance due to insufficiency of material on record.

10. In view of the foregoing, we hold that the applicant has not been able to make out any case requiring our interference. The OA is accordingly dismissed. The interim order is vacated. The parties, however, shall bear their own costs.


Member (A)


Vice Chairman

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