

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1588 of 1999

Allahabad this the 19th day of March, 2002

Hon'ble Mr.Rafiquddin, Member (J)
Hon'ble Mr.C.S.Chadha, Member (A)

AMARPAL a/a 43 years, Son of Sri Roop Chandra,
Resident of Quarter No.299/A, New Model Railway
Colony, Izatnagar, NE Railway, Bareilly, presently
posted as Depot Store Keeper Grade-III(Ledger Section)
In the Office of Distt.Controller of Store, NE Railway,
Izatnagar, Bareilly.

Applicant

By Advocate Shri Sudhir Agarwal

Versus

1. Union of India through the Secretary, Ministry of Railways, New Delhi Rail Bhawan, New Delhi.
2. The General Manager, NE Railway, Gorakhpur.
3. The Senior Divisional Accounts Officer, Izatnagar, NE Railway, Bareilly.
4. The Distt. Controller of Stores, NE Railway, Izatnagar, Bareilly.

Respondents

By Advocate Km.Sadhna Srivastava

O R D E R (Oral)

By Hon'ble Mr.Rafiquddin, Member (J)

The applicant has sought quashing of
the orders dated 11.07.98, 18.05.99, 19.11.98 and
19.08.99 Annexures A-1 to A-4 respectively, and has

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also sought directions to the respondents to restrain them from taking any action in pursuance of the charge-sheet dated 11.07.98.

2. The facts of the case are that the applicant while posted as Depot Store Keeper Grade-III, Izatnagar, N.E. Railway, a stock verification was made by the vigilance team on 28.03.1995. It appears that on physical verification made by the vigilance team, shortage of some stock was allegedly found. The applicant was placed under suspension on 06.04.95 and was also served with a charge-sheet dated 19.09.1995 containing six charges regarding the alleged shortage in Steel Type Scrap~~M~~ and ~~M~~ Axle Scrap~~M~~. ^{the Re} Copy of this charge sheet has been annexed as annexure A-6 to this O.A. Suspension of the applicant was revoked on 04.10.95 and thereafter the applicant was posted as Depot Store Keeper Grade III. A departmental inquiry was conducted against the applicant by the Inquiry Officer-Shri R.S. Yadav, who ^{held} ~~held~~ charges no. 2 to 6 proved against the applicant. The disciplinary authority while agreeing with the inquiry report imposed punishment of reduction in rank as well as recovery of Rs.3,12,584/- upon the applicant, vide order dated 26.05.99 (annexure A-7). The applicant thereafter submitted appeal against the said punishment order on 13.7.1999, which is still pending before the appellate authority.

3. The grievance of the applicant is that the District Controller of Stores, N.E.Railway, Izat-nagar, Bareilly (respondent no.4) has served another charge-sheet dated 11.07.1998(annexure A-1) on the same set of allegations in respect of same transactions. The applicant claimed that two inquiries cannot be conducted against the applicant on the same set of transaction, hence he submitted his representation dated 28.08.1998, requesting the respondents to drop the second inquiry as the first inquiry was already going on on the same charges. The applicant was informed vide letter dated 19.11.1998 that as per information given by the Vigilance department since the two charge-sheets were substantially different, hence the applicant was directed to submit his reply against the charge-sheet dated 11.07.98, which is impugned in this O.A. The applicant again submitted representation on 08.12.1998 requesting the respondent no.4 as to what substantial difference he found in the said two charges, but the respondent no.4 vide letter dated 18.05.1999 appointed Smt.Rekha Goel as an Inquiry Officer and one Shri Sudhir Hari as a Presenting Officer without giving any reply to the aforesaid letter of the applicant. In the meantime the earlier inquiry was completed and the applicant was punished as mentioned above, therefore, through fax message dated 15.07.99 the applicant informed the said Inquiry Officer about the entire position and requested the Inquiry Officer to defer the inquiry proceedings till the applicant's appeal

is finally decided, but the respondent no.4 vide letter dated 19.08.99 directed the applicant to participate in the inquiry, stating that the later charge-sheet has no connection with the earlier charge-sheet.

4. It is thus contended that the entire proceedings as well as charge sheet dated 11.07.98 is wholly illegal and without jurisdiction. Hence he has filed this O.A. seeking the aforesaid reliefs.

5. We have heard the learned counsel for the parties and gone through the record.

6. Learned counsel for the respondents on the basis of pleadings has contended that the charge of only 28 items were completed up to 01.12.1995 and the charge of remaining two items were completed and one item on 23.4.1996 and the second item on 28.3.1997, in which the shortage were detected to the tune of 61.034 Metric Ton, the cost of which is to be recovered from the applicant. It is further stated that after the submission of earlier charge-sheet dated 19.09.95, the matter was re-investigated by another checking agency (Railway Board Vigilance) and when the other certain discrepancies were deducted, the charge-sheet dated 11.07.1998 was issued which included the identical charges mentioned in the earlier charge-sheet dated 19.09.95. It is contended that it cannot be said that the charges were the same and the subsequent charge sheet dated 11.07.98 can be termed as supplementary charge-sheet to the ...pg.5/-

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earlier charge-sheet. It is also submitted that some items of the charges were different as such, another charge-sheet dated 11.07.98 has been issued on the same set of transaction, as such, there is no illegality. It is, however, admitted that in case there is repetition of the charges or the same charges have been levelled in second charge-sheet, ~~any~~^{Rh} ~~those~~ charges will not be re-examined, but on this count, the whole charge-sheet cannot be quashed.

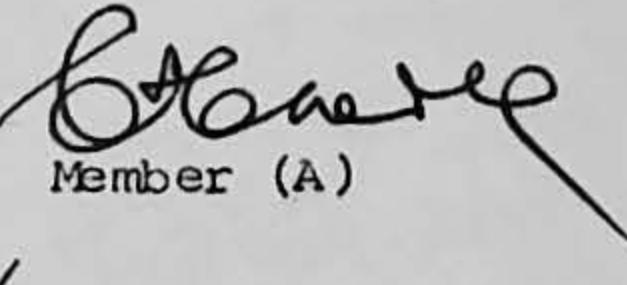
7. Learned counsel for the applicant has brought to our notice the averments made in para-12 of the counter-affidavit to the effect that the charges may be identical, but not the same. It is obvious that the respondents have admitted ~~the nature of the~~^{Rh} ~~of being~~ charges in both the charge-sheet of identical nature. It is, however, contended by the learned counsel for the respondents that the charges are not the same. It is admitted position in the present case ~~of~~ that the applicant has been punished after conducting the departmental inquiry in respect of transaction in question. Therefore, in our considered opinion, the applicant cannot be proceeded departmentally on the same set of charges on the basis of second charge-sheet dated 11.07.98. The action of the respondents amounts to double jeopardy and hence illegal, and liable to be set aside.

8. Considering the facts and circumstances of the case, we are therefore inclined to quash the

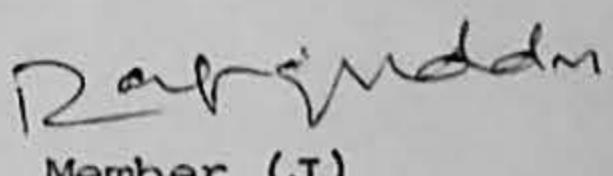
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impugned charge-sheet dated 11.07.98(annexure A-1) and the orders contained in annexures no.2, 3 and 4 passed by the respondent no.4.

9. We accordingly allow this O.A. and quash the orders dated 11.07.98(annexure A-1), 18.05.99(annexure A-2), 19.11.98(annexure A-3) and 19.08.99(annexure A-4). While parting with the case we are constrained to observe that the disciplinary authority has not acted in impartial manner and without applying his judicious mind, he served upon the applicant second charge-sheet on the same set of charges. The matter requires proper inquiry by the competent authority as to why ~~has~~ this has been done by the disciplinary authority. It is clarified that any observation made in this O.A. will not affect the merit of the O.A. filed by the applicant against the punishment order. There will be no order as to costs.


Member (A)

/M. M./


Member (J)