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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 1st day of December 2000.

Original Application no. 1346 of 2000.

Hon'ble Mr. V.K. Majotra, Administrative Member
Hon'ble Mr. S.K.I. Naqvi, Judicial Member

S.R. Sonkar, S/o Sri P.L. Sonkar,
C/o Sri R.K. Sharma, Power House Road,
Mohaddipur, Gorakhpur.

Presently working as Depot Store Keeper Grade I,
in scale of Rs. 6500 -10500 in Railway Press,
N.E. Railway, Gorakhpur.

... Applicant

C/A Shri B. Tewari

Versus

1. Union of India through the General Manager,
N.E. Rly., Gorakhpur
2. Manager (Printing and Stationary),
N.E. Rly., Gorakhpur
3. Senior D.M.E. (Diesel), N.E. Rly.,
Izatnagar, Bareilly
4. Commissioner for Departmental Enquiry and
Enquiry Officer, Government of India,
Central Vigilance Commission, Satarkta
Bhawan, G.P.O. Complex, Block-A, I.N.A.,
New Delhi.

... Respondents

C/Rs ...

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O R D E R(Oral)

Hon'ble Mr. V.K. Majotra, A.M.

The applicant has challenged order dated 29.01.2000 issued by Manager (Printing and Stationary) N. E. Railway Press Gorakhpur (Annexure 1), Whereby after consideration of charges of defence statement of the applicant, the inquiry being held against him in pursuance of memorandum dated 09.09.98 has been held to be essential. According to the applicant he had been issued a charge sheet of minor penalty on 6.10.95, which was cancelled on 25.04.96. He was issued another charge sheet again for minor penalty on 3.4.96 (Annexure 2). Consequently, by order dated 31.5.96, nine sets of passes & PTO's of the applicant in pursuance of charge sheet dated 3.4.96 were with-held. On his appeal against order dated 31.5.96, his punishment was modified reducing six sets of passes to be with-held by order dated 15.4.97 (Annexure A-3). The applicant has averred that on 9.9.98, he has been issued a charge sheet of major penalty (Annexure A4) on the basis of the same facts as were alleged in the earlier inquiry on the basis of charge sheet dated 3.4.96. The applicant has alleged double jeopardy and brought out that in the matter of Amar Pal who was custodian of stores while the applicant was depot store keeper Grade I, in OA 1500 of 2000(1999) the Tribunal has passed an order dated 28.01.2000 (Annexure A12) admitting the petition and staying further proceedings.

2. Learned counsel has brought annexure A-7

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specifically to our attention which contains a comparative statement of charge contained in charge sheet dated 3.4.96 and those contained in charge sheet dated 9.9.98. We find that in the former charge sheet, the period mentioned is 7.2.95 to 28.3.95. The later charge sheet relates to entire ~~order~~ ^{yearly} of 1995. In the former charge sheet, specific quantities and dates relating to adjustment etc of stock have not been mentioned, these have been provided in the later charge sheet. In the later charge sheet particularly stock sheet no. 5854 dated 13.5.95 for 30.00 metric ton of Tyres steel scrap cannot be related to the period covered in first charge sheet. In our view, the charge sheets dated 9.9.98 and 3.4.96 are not identical as claimed by the applicant.

3. Learned counsel for the applicant contended that Amar Pal was custodian of the stores during the same period when the applicant was the depot store keeper Grade I and the same transaction as alleged in the present matter is the subject matter of OA 1500/2000(1999) relating to Amar Pal in which petition has been admitted and the proceedings stayed. He drew our attention to order dated 28.01.2000, which reads as follows :-

"Heard Shri Sudhir Agarwal learned counsel for the applicant. Admit. Interim stay to the extent of not passing any order in subsequent disciplinary proceedings in Charge-sheet dated 11.7.98. Registry is directed to publish the case for final hearing immediately after completion of pleadings."

u The bare reading of this order does not establish that

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the matter in both the cases are same.

4. Having regard to the above, we are of the view that the applicant has not been able to establish the *prima facie*, that the charge sheets dated 3.4.96 and 9.9.98 are identical. Thus the O.A. is dismissed in limine.
5. No order as to costs.

See margin

Member-J

Uk Maphi

Member-A

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