

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 29th day of JANUARY 2004.

Original Application no. 1603 of 2003.

Hon'ble Maj Gen K.K. Srivastava, Member-A
Hon'ble Mr. A.K. Bhatnagar, Member-J.

Prem Shanker Singh, S/o Sri Vishwanath Singh,
Dy. Station Supdt.,
Station Kuchman, Danapur, Danapur Division,
Distt. Chandauli.

... Applicant

By Adv : Sri S. Mandhyan

V E R S U S

1. Union of India through General Manager,
East Central Railway,
HAJIPUR.
2. Divisional Railway Manager,
East Central Railway,
DANAPUR.
3. Sr. Divl. Operating Manager,
East Central Railway,
DANAPUR.
4. Sr. Divl. Commercial Manager,
East Central Railway,
DANAPUR.

... Respondents

By Adv : Sri K.P. Singh

O R D E R

Maj Gen K.K. Srivastava, AM.

In this OA, filed under Section 19 of the A.T. Act,
1985, the applicant has ^{"Sought in"} sought for quashing of two major
penalty charge sheets dated 14.11.2003 (SF 5) (Ann A1 & A2).

2. The facts of the case, in short, are that the applicant was initially appointed as Assistant Station Master (in short ASM) on 10.2.1980 under dying in harness rules. In due course of time the applicant has been promoted as Dy. Station Supdt. and presently he is working as Dy. Station Supdt., Kuchman Distt Chandauli under Danapur Division. The applicant was served with two major penalty charge sheets dated 14.11.2003. One for getting the appointment on the basis of forged marks sheet and misleading the Railway administration for his personal gain and the second about unauthorised absence. Aggrieved by the same the applicant filed this OA.

3. Sri S. Mandhyan, learned counsel for the applicant submitted that these charge sheets have been served as a result of victimisation of the applicant by the respondents because the applicant has been resisting the illegal transfer orders issued for applicant by filing different OAs in this Tribunal. Learned counsel further submitted that the applicant was appointed in the year 1980 and he has rendered 23 years of satisfactory and unblameable service and now issuing the major penalty charge sheet alleging that the applicant has obtained appointment in the Railway administration on the basis of forged marks sheet is nothing but to harass the applicant. Learned counsel for the applicant has placed reliance on the judgment of Hon'ble Allahabad High Court in case of Kalu Ram Vs. State of UP & Ors, 2000 UPLBEC (vol 1) 85. As regard the second charge sheet for unauthorised absence, the learned counsel for the applicant submitted that the same ^{is} has also not borne out of the fact and is out-come of the malafide on the part of the ^{the} authorities ^{the}

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concerned.

4. Resisting the claim of the applicant, learned counsel for the respondents, submitted that this Tribunal should not interfere at this interlocutory stage of the disciplinary proceedings as held by Hon'ble Supreme Court in case of The Managing Director, Madras Metropolitan Water Supply and Sewerage Board and others Vs. R. Rajan etc, JT 1995 (8) SC 447. Learned counsel for the respondents relying upon the judgment of Hon'ble Supreme Court in case of State of Punjab Vs. Chaman Lal Goyal, JT 1995 (2) SC 18 submitted that in the present case the quashing of charges are not warranted and the applicant should be ready to face the enquiry so that ^h truth comes ^h out and the disciplinary proceedings be decided on the basis of detailed enquiry to be held.

5. We have heard learned counsel for the parties, considered their submissions and perused records.

6. In our opinion it is a fit case to be decided at the admission stage itself without calling for counter affidavit and rejoinder affidavit. We have perused both the charge sheets dated 14.11.2003 (Ann A1 & A2). In the charge sheet at annexure A1, three charges have been framed against the applicant. One is that the applicant has managed to get fake High School Certificate dated 03.09.1977 from N.P. Inter College, Mughalsarai for the year 1977 and marks sheet dated 4.7.1977 and used the same in getting the appointment/service in Group 'C' category on compassionate ground. The second charge is that while working as Station Master/Dy. SM at Mughalsarai during August 1992, he was

arrested on 23.8.1992 by Thana Alinagar and sent to jail and he came out from jail on 29.8.1992 on bail, but he submitted RMC for the periods from 02.08.1992 to 20.08.1992 and 21.8.1992 to 03.09.1992. The third charge is regarding his misleading the Railway administration for his personal gain and, thereby, committed serious misconduct in violation of Rule 3.1 (i), (ii) & (iii) of the Railway Servant (Conduct) Rules 1966. In the second major penalty charge sheet, three charges have been levelled against the applicant. First charge is regarding unauthorised absence, second about misleading the Railway Administration and getting spaired on 23.5.2001 from NRX Station of HWH division and joined at Danapur division on 24.5.2001, even though he was not spared by fabricating the signature of SS/NRX and DOM/HOH. The third charge is that the applicant as SM/NRX is involved in a fraudulent matter committed against the Railway administration.

7. In our considered opinion, the above charges are the matter of investigation which can be done by the Railway administration by holding a proper and detailed enquiry. This Tribunal has no means to investigate into such matters nor it is within the ^{domain} of this Tribunal to enquire into such charges. Learned counsel for the applicant has placed reliance on the judgment of Hon'ble Allahabad High Court in case of Kalu Ram (supra) which is easily distinguishable as that matter was regarding furnishing of a diploma certificate at the time of initial appointment which was not from a recognised institution and on the basis that since the diploma certificate

furnished by the applicant was not from a recognised institution, the applicant's services were terminated after 36 years of service. The Hon'ble ^{High} Supreme Court in this case has held that the validity of the applicant's diploma should have been considered at the time of appointing him in the year 1963 or within a reasonable period thereafter, but the matter could not be examined after a gap of 35 or 36 years. Holding such an action of the respondents as arbitrary the Hon'ble ^{High} Supreme Court has quashed the termination order. The facts in the present case are easily distinguishable.

8. We find substance in the submission of learned counsel for the respondents that no interference is called for at the interlocutory stage of the disciplinary proceedings which is fortified by the judgment of Hon'ble Supreme Court in case of R. Rajan and ors (supra) as cited by the learned counsel for the respondents. Even-otherwise it is a settled principle of law that charge sheet is not a punishment and therefore, we do not find any good ground for interference at this stage. The Hon'ble Supreme Court in case of State of Punjab & Ors (supra) has held as under :-

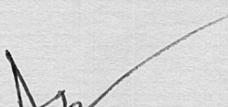
"Applying the balancing process, we are of the opinion that the quashing of charges and of the order appointing enquiry officer was not warranted in the facts and circumstances of the case. It is more appropriate and in the interest of justice as well as in the interest of administration that the enquiry which had proceeded to a large extent be allowed to be completed. At the same time, it is directed that the respondent should be considered forthwith for promotion without reference to and without taking into consideration the charges

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or the pendency of the said enquiry and if he is found fit for promotion, he should be promoted immediately."

9. Applying the ratio laid down by the Hon'ble Supreme Court in the above cases, we dispose of this OA at the admission stage itself with direction to the disciplinary authority to conclude the disciplinary proceedings within a period of four months from the date of communication of this order. The disciplinary authority shall take steps to complete the enquiry within the time specified ⁱⁿ ~~under rules~~ and pass the necessary orders as per law. We also direct the applicant to co-operate in the enquiry so that the disciplinary proceedings are completed within the time specified in this order. The OA is decided accordingly.

10. There shall be no order as to costs.


Member-J


Member-A

/pc/