CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

[redacted]
AHMEDABAD BENCH.

O.A. Nos.73,74,75,76,77 & 7898 9.
~~T.A. No.~~

DATE OF DECISION 11.08.1989.

Murlidharan Madhavan Khalasi & Others. **Petitioner**

Mr. U. M. Shashtri. **Advocate for the Petitioner(s)**

Versus

The Union of India & Others. **Respondent**

Mr. N. S. Shevde. **Advocate for the Respondent(s)**

CORAM :

The Hon'ble Mr. P. M. Joshi ... Judicial Member.

The Hon'ble Mr. M. M. Singh ... Administrative Member.

(2)

Murlidharan Madhavan Khalasi
of Ahmedabad.
(O.A. 73/ 89)

Prabodhkumar Rambahadur Khalasi
of Ahmedabad.
(O.A. 74/89)

Pasabhai N Khalasi
of Ahmedabad.
(O.A. 75/89)

Jagdishkumar Madhaji Khalasi,
working under District Signal

&

Telecom Engineer, (Construction),
Western Railway,
Ahmedabad.
(O.A. 76/89)

Girja Shankar V. Khalasi,
of Ahmedabad.
(O.A. 77/ 89)

Rajmanikyam Sanyasi, Khalasi
of Ahmedabad.
(O.A. 78/ 89)

... APPLICANTS.

(Advocate : Mr. U. M. Shashtri)

V/s.

1. The Union of India,
to be served through,
The General Manager,
Western Railway, Churchgate,
Bombay: 20.

2. The District Signal &
Tele-Com-Engr, (Construction)
Western Railway,
Ahmedabad.

3. The Asstt. Signal & Tele. Com. Engineer, (Construction) Western Railway, Ahmedabad, At Bhuj.

3. The Asstt. Signal &
Tele-Com- Engr, (Construction)
Western Railway,
Churchgate,
Bombay: 20. (only for 75)

... RESPONDENTS.

(Common Respondents in all
above applications)

(Advocate : Mr. N. S. Shevde)

CORAM : Hon'ble Mr. P. M. Joshi .. Judicial Member.

Hon'ble Mr. M. M. Singh .. Administrative Member.

COMMON ORAL ORDER

(O.A. Nos. 73, 74, 75, 76, 77 and 78 of 1989)

Date : 11.08.1989.

Per : Hon'ble Mr. P.M.Joshi .... Judicial Member.

The petitioners, in all the aforesaid matters, have filed separate application under Section 19 of the Administrative Tribunal Act 1985. They are all engaged as Casual Labourer and they are subjected to Departmental Proceedings under ' The Railway Servants (Discipline & Appeal) Rules, 1968 '. It is the coomon plea of the petitioners in this group of cases, that the action of the respondents Railway Administration in issuing the memorandum of chargesheet against them, is illegal and bad in law. According to them when the T.A. 1354/86 (S.C.A. 5602/85) and the reveiw application (M.A. 151/87), were decided in favour of the petitioners, their action to initiate Departmental Proceedings are not permissible and legal and is actuated by malice. They have therefore, prayed that the impugned action be quashed and set aside and the respondents be restrained from taking actions for alleged misconduct under disciplinary proceedings.

2. When the matter came up for admission, we have heard Mr. M.M.Shahstri for Mr. U.M.Shahtri and Mr. N. S.Shevde the learned counsel for the petitioners and the respondents respectively. During the course of his argument it was

(13)

streneously urged by Mr. M.M.Shashtri that the respondents are estopped from taking Departmental Proceedings when the petitioner are reinstated in terms of the directions issued by the Tribunal in Judgment dt. 16.2.87. In his submission the respondent well knew the cause of termination, which was based on misconduct and when this issue was the subject matter of review application, and the same was decided in favour of the petitioners, the respondents should be restrained from taking any action by holding departmental proceedings against them. It was submitted that the petitioners are also denied opportunity to defend themselves in as much as the respondents have not furnished the documents as requested under their application dt. 15.9.1988.

3. It is pertinent to note that the action of termination of the services of the petitioners was the subject matter of T.A. No. 1354/86(S.C.A. 5602/86) and in that case no counter was filed. As a matter of fact, no plea was raised that the action of the termination was founded on misconduct. However, the respondents while filing Review Application before this Tribunal, an attempt was made, seek review of our Judgment by raising the plea that the termination was founded on such misconduct. In our decision in M.A., we refused to entertain the plea and rejected the application, without adjudicating the merits of the plea.

4. The petitioners are subjected to a Departmental Proceedings on the accusations that they had commited a serious misconduct of producing false ' Service Card ' and secured gainful employment by producing false service card and thereby cheated Railway by drawing remuneration. Obviously, there are serious charges levelled against the petitioners. At this stage, it may be stated that the decision of the Tribunal in quashing order

of termination and rejecting the review application, do not prevent the respondents in taking departmental proceedings against the petitioner, if the accusations are validly founded, on evidence. Now, when the petitioners are served, with the chargesheet they have ample opportunity to defend their case and in case they have any grievance against the final order passed by the Disciplinary Authority, they have every right to approach the proper forum for their redressal under the Rules. But they may not be permitted to cause inroads in the Respondents action of initiating departmental proceedings by filing this application, at the interlocutary stage.

The grounds of estopple, raised against the action of the respondents, in taking departmental proceedings against the petitioners do not seem to be well-founded. The respondents have never told or conveyed them, even by any conduct, that no departmental actions are likely to be taken against them and even otherwise the question of taking any departmental proceedings was not the subject matter of the previous proceedings referred by the petitioners in this application. Thus, there are no other valid grounds to quash or stay the departmental proceedings. In case, the petitioners feel that they are denied opportunity to defend themselves as documents required for purpose of their defence are not furnished, they are free to raise their objections before the authority and ultimately such denial and other flaw or infirmity in the proceedings will have its impact on the final order. But at this stage, there are no valid grounds to stay or quash the departmental proceedings initiated against them.

(4)

/ 6 /

The applications, therefore merit no consideration, and accordingly they are rejected summarily.

Sd/-
(M M Singh)
Administrative Member

Sd/-
(P M Joshi)
Judicial Member

Prepared by: RRL 25.8.89

Compared by: P.T.T. 28.08.89

TRUE COPY

K. B. SANE
Section Officer
Central Administrative Tribunal.
Ahmedabad Bench.

(5)

Review Appln.No.96/89

in

O.A./74/89

Coram : Hon'ble Mr. J.N.Murthy : Judicial Member

Hon'ble Mr. M.M.Singh : Administrative Member

15/12/1989

Heard Mr.U.M.Shastri, learned advocate for the applicant. The review application, in so far as it seeks direction on a fresh point, is outside the purview of review. The review application is rejected and disposed of accordingly.

M. M. Singh

(M.M.Singh)
Administrative Member

(J.N.Murthy)
Judicial Member