

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Ref. Registrar Council's
O.S. dt. 21.5.01

Counter not filed.

12/22/01

Bench

Counter not filed.

12/9/01

Bench

Counter filed - copy served.

12/3/01

Bench

Rejoinder not filed.

12/7/01

Bench

Rejoinder not filed.

12/19/01

Bench

Rejoinder not filed.

12/29/01

Bench

Rejoinder not filed.

12/1/01

Bench

Rejoinder not filed.

12/11/02

Bench

12. 17.06.02.

At request three weeks more time is allowed to file rejoinder.

Matter is adjourned to 11.07.02.

Member (S),

13. 11.7.02

Call this matter on for final disposal before the next available Division Bench.

Member (S)

Order dated 03.02.2004

Heard the learned counsel for the parties in extenso. On perusal of the application, it appears that Respondent No.4 who had initiated the disciplinary proceedings against the applicant vide Annexure-2 under the following charges.

"Shri Ganapati Sikka L/Man (office in which working.. SE/P.Way/SBP is hereby informed that the President/Railway Board/Undersigned propose(s) to take action against him under Rule 11 of the Railway Servants (Discipline and Appeal) Rules, 1968. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

Shri Ganapati Sikka is hereby given as opportunity to make such representation as he may wish to make against the proposal. The representation, if any, should be submitted to the undersigned (through the General Manager, W.E. Railway, so as to reach to the said Manager)* within ten days of receipt of this memorandum.

~~Six~~ If Shri Ganapati Sikka fails to submit his representation within the period specified in para 2, it will be presumed

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Rejoinder not filed.

DS
19.2.02

Bereh

1
1.11.02

Or. No. 10 may be allowed.

Rejoinder not filed

ad to 3.5.02

1
2.5.02

Bal

Or. No. 11 may be allowed.

1. Rejoinder not filed

11 ad to 12.6.02

1
13.6.02

Bal

Or. No. 12 may be allowed.

Rejoinder not filed

ad to 11.7.02

1
10.7.02

Bal

that he has no representation to make and orders will be liable to be passed against Shri Ganapati Sikka ex-parte."

On a cursory glance to the article of charge ~~mentioned~~ under Annexure-2, it reveals that the same ~~is~~ not in consonance with the Railway Rules nor in the proper form printed for the purpose. Shri Kanungo, the learned counsel appearing for the applicant invited our attention to the said charge and submitted that the article of charge is not maintainable inasmuch as the applicant has been deprived of submitting his show cause to the said article of charge since it is not in accordance with the rules. Shri Mishra, the learned counsel appearing for the Respondents could not substantiate as to how the article of charge could be mentioned ~~not~~ in proper proforma but only in a single page order. On perusal of article of charge it is found that no grounds of imputation have been made nor any document enclosed to substantiate the said charge. Accordingly, ~~prima facie~~, we are ~~not~~ satisfied that the article of charge is not sustainable in law. Accordingly, we quash Annexure-2 to the application. Therefore, the O.A. succeeds. No costs.

But, however, it does not preclude the authorities to initiate a fresh proceedings in accordance with rules if they are so advised.

VICE-CHAIRMAN

VICE-CHAIRMAN