

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

T.A. No. 46 of 1996.
(CR 9774 (W) /84)

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.
HON'BLE MR. D. PURKAYASTHA, JUDICIAL MEMBER.

P.K. Gupta Bhaya,
Asstt. Driver (Electrical).
posted at Anara Station under
Traction Foreman (E), Anara,
resident at - Rly. Qtr. No. L-160/C,
Old Settlement, P.O. Anara,
Dist- Purulia, Pin 723126.

... Petitioner.

Vrs.

1. Union of India,
through the General Manager,
S.E. Rly, Garden Reach,
Calcutta. 43.
2. Divl. Rly. Manager,
S.E. Rly, Adra,
Purulia;
3. Sr. Divl. Electrical Engineer (TR),
SE Rly, Adra, Purulia.

... Respondents.

For applicant : Mr. Samir Ghosh, Counsel leading,
Mrs. B. Ghosh Dutta, Counsel.

For respondents : None.

Heard on : 1.9.97.

Ordered on : 1.9.97.

O R D E R

B.C.Sarma, AM.

/has

1. This T.A./originated in C.R. No. 9774 (W) /84 which was filed in the High Court at Calcutta and transferred to this Tribunal only in 1996.
2. In this case, the applicant has challenged a ~~Chancery~~-memo dated 12.12.83 served by the respondents on him on the allegation

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that he was on unauthorised absence from 5.12.83 to the date of charge-sheet. The applicant's contention is that he was not on unauthorised absence and he submitted Medical Certificate from a private medical practitioner, which was not accepted by the railway authorities. Thereafter, he filed a Writ Petition in the High Court and the High Court, by Order dated 12th July '84, had granted an Interim Order of stay in terms of prayer (f) made in the petition till 18th August '84. The applicant in this case has prayed for quashing the charge-memo and also issue of a direction on the respondents not to hold further inquiry on the basis of purported charge-sheet.

3. When the matter was taken up for hearing today, none appeared for the respondents. We find that a Notice was issued on both the parties by Registered Post on 21st April '97. However, since it is a very old matter, we have decided to adjudicate the dispute ex-parte.

4. We have heard the submission of Mr. Samir Ghosh, 1d. Counsel leading Mrs. B. Ghosh Dutta, 1d. Counsel. However, when the matter was taken up, we find that earlier Mr. S. Ganguly, 1d. Counsel, was engaged in this case and no power has been filed by Mrs. Ghosh Dutta. But she has given assurance that she is going to file power in the course of the day. Mr. Ghosh, ~~however, submits~~ ^{submits} that his client is present in the Court. He, ~~also~~ ^{submits} that earlier 1d. Counsel for the applicant, Mr. Ganguly, is too sick to attend the Court.

5. We have considered the matter after hearing the submission of Mr. Ghosh and perusing the records. Mr. Ghosh submits that the charge-sheet has been issued against the applicant on the ground that the medical certificate given by the private medical practitioner cannot be entertained by the railways. In this case, however, Mr. Ghosh submits that private-medical practitioner's certificate

was given by a competent Medical Officer and, in this connection, he invites our attention to an Estt. Srl. No. 208/72 (No. P/R/30/4H-Pt. VII) dated 21 July, 1972, which stipulates that a Medical Certificate issued by a Private Medical Practitioner can also be entertained by the railway authorities. Mr. Ghosh further submits that, in this case, the applicant had filed a reply to the charge-memo and inquiry was halted ^{midway} ~~in the miday~~. However, we find that an Interim of Injunction was issued on 12th July '84 till 18th Aug '84 by the High Court. Whatever that may be, since the applicant has assailed the charge-sheet, we are of the view that an appropriate order to be passed in this case is to bring the departmental proceeding to a logical conclusion.

6. In view of the above, the application is disposed of with the direction that the respondents shall complete the disciplinary proceedings instituted against the applicant and shall pass Orders by the disciplinary authority within a period of 5(five) months from the date of communication of this Order. The applicant is also directed to co-operate with the respondents in holding the inquiry. We give liberty to the applicant to approach this Tribunal once again, if he feels aggrieved by the Orders to be passed in this proceeding. We also direct the respondents to keep in mind the Judgement dated 20.6.1988 passed by this Tribunal in batch of T.As including T.A. No. 668 of 1986 and T.A. No. 6 of 1990, delivered on 29.6.90. No order is passed as regards costs.


(D. Purkayastha)
Member (J)


(B.C. Sarma)
Member (A)