

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 466 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Mr. M.S. Mukherjee, Administrative Member

Sri Narayan Chandra Mondal, retired employee
of Eastern Railway, residing at 80/4, Dr.B.B.
Road, Schoolpara, Raniganj, Dist. Burdwan.

..... Applicant

-Versus-

1. Union of India, represented by the General Manager, Eastern Railway, 17, Netaji Subhas Road, Calcutta-700001 ;
2. Chief Personnel Officer, Eastern Railway, 17, Netaji Subhas Road, Calcutta-700001 ;
3. K.L. Dua, Deputy Secretary(E) II, Railway Board, Rail Bhavan, New Delhi.

..... Respondents

Counsel for the applicant : Mr. A.K. Banerjee

Counsel for the respondents : Mr. C. Samaddar

Heard on : 16.12.1996

Order on : 13.1.1997

O R D E R

A.K. Chatterjee, VC

The petitioner was an employee of the Eastern Railway and retired on attaining the age of superannuation on 31st August, 1988 as an Assistant Commercial Manager. One day prior to the retirement i.e. 30.8.88, a Memorandum of Charge was issued alleging, inter alia, that in connection with examination for recruitment against Employment Notice No.1/84, he committed gross irregularity in evaluating answer books of various examinees and had awarded high marks with the consequence that the candidates got qualifying marks for a call for viva-voce test. When this proceeding was pending, another



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charge-sheet was issued on 22.5.89 alleging irregularities committed by him in evaluation of answer papers of candidates in the same examination and awarding high marks to the candidates enabling them to qualify for viva-voce test. Thereafter, the petitioner moved this Tribunal being O.A.1383/94 for cancellation of both the charge-sheets, which was disposed of on 10.5.95 with the order that the departmental proceeding initiated by the 2nd charge-sheet should be concluded within three months from date, in default of which the applicant would be exonerated of all the charges. Thereafter, on 14.8.95, an order was issued by the Chief Personnel Officer intimating the decision of the Railway Board to drop/cancel the 2nd charge-sheet without, however, any prejudice in any manner the DAR proceeding initiated by the first charge-sheet. The petitioner contends in the present application that the 2nd charge-sheet having been cancelled, the first charge-sheet stands automatically cancelled.

2. The respondents did not file any counter, but we have heard the 1d. counsel for both the parties and perused the records before us. The bone of contention of the 1d. counsel for the petitioner was that the 2nd charge-sheet having been cancelled, the first charge-sheet, the subject-matter of which was substantially the same as that of the subsequent charge-sheet must also be regarded as cancelled. We are unable to appreciate any force in this contention because even if the substance of allegation in both the charge-sheets were same, still a mere decision to drop or cancel one of the charge-sheets without any finding regarding the merit of the allegation certainly does not support a conclusion that the other charge-sheet must also be treated as cancelled. In fact, the petitioner's prayer in the previous O.A. bearing No.1383/94 was for cancellation of both the charge-sheets, but

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this Bench gave a direction for concluding the departmental proceeding initiated by the 2nd charge-sheet within a specified period and not a word was said regarding petitioner's prayer for cancellation of the first charge-sheet. It has been stated in the application under consideration that the order passed by this Bench was virtually a cancellation of both the charge-sheets on efflux of time prescribed by the Bench for conclusion of the departmental proceeding initiated on the basis of the 2nd charge sheet. We find no substance in this contention and we are disposed to the view that the Bench by deliberately refraining from entertaining the petitioner's prayer for cancellation of the first charge-sheet enabled the respondents to proceed with the disciplinary proceeding initiated by the first charge-sheet.

3. We are, therefore, unable to share the contention of the ~~ld.~~ Counsel for the petitioner that the first charge-sheet must also be regarded as cancelled and we do not consider this a fit case for admission.

4. The application is, therefore, rejected but we give a direction to the respondents to conclude the disciplinary proceeding initiated on the basis of the first charge-sheet within three months from the date of communication of this order, in default of which the petitioner shall be exonerated of all the charges.

5. We, however, make no order as to costs.

Mukherjee
(M.S. Mukherjee)
Member (A)

A.K. Chatterjee
(A.K. Chatterjee)
Vice-Chairman