

D/13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of Decision : 21.03.2002.

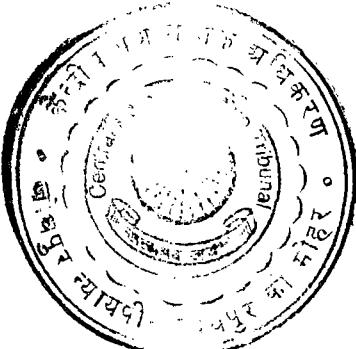
O.A. No. 214/1998.

Akkel Mohammed Nayak son of Shri Ishaq Mohammed, aged about 32 years, resident of 82, Kumharwara, Near Sabji Mandi, Udaipur, at present employed on the post of Asst. Station Master Umra, Distt. Udaipur, Western Railway.

... APPLICANT.

versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Chief Operating Manager, Western Railway, Churchgate Mumbai.
3. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.
4. Divisional Safety Officer, Western Railway, Ajmer Division, Ajmer.
5. Divisional Operating Manager, Western Railway, Ajmer Division, Ajmer.



... RESPONDENTS.

Mr. B. Khan counsel for the applicant.

Mr. S. S. Vyas counsel for the respondents.

CORAM:

Hon'ble Mr. Justice O. P. Garg, Vice Chairman.
Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :
(per Hon'ble Mr. Justice O. P. Garg)

The moot point for consideration and determination in this Original Application is whether the Divisional Safety Officer was competent to initiate disciplinary proceedings by serving the charge sheet upon the applicant, who was at the relevant time posted as Assistant Station Master. This

Bench at Jodhpur in OA No. 241/93 decided on 19.08.1998, S.M. Noble vs. U.O.I. & Ors., has taken the view that the Divisional Safety Officer is not competent to serve the charge sheet and consequently quashed the proceedings initiated by the Divisional Safety Officer. It was pointed out that the respondents have challenged the decision aforesaid by preferring a writ petition before the Hon'ble High Court under Article 226 of Constitution of India. The said petition has been admitted and the operation of the order dated 19.08.1998, passed in OA No. 241/93 has been stayed. The writ petition is still pending. The learned counsel for the respondents, however, pointed out that contrary to the view taken in S.M. Noble's case, the Jaipur Bench of this Tribunal in OA No. 37/1993 decided on 16.11.1995, Chandrakant vs. Union of India, and in OA No. 655/93 decided on 30.11.1995, K.G. Sharma vs. Union of India & Ors., has taken a different view. Patna Bench of the Central Administrative Tribunal in OA No. 160/94 decided on 22.08.1995, Suresh Prasad vs. U.O.I. & Ors., has taken the view which is in conformity with the view taken by this Bench in S.M. Noble's case.

2. There are thus two distinct divergent views on the point. On the one hand, there is the decision of the Patna Bench of C.A.T as well as of this Tribunal (Jodhpur Bench) holding that the Divisional Safety Officer is not competent to initiate departmental enquiry or to serve the charge sheet on an Assistant Station Master, while on the other, there is the contrary view of the Jaipur Bench of this Tribunal. All the decisions have been rendered by the Division Benches. In view of the conflicting decisions on

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the same issue, the controversy has to be resolved by a larger Bench.

3. In the backdrop of the above facts, we have no option but to refer the matter to a larger Bench for opinion on the following issue:

" Whether the Divisional Safety Officer was competent to initiate the departmental enquiry against Assistant Station Master, prior to the issuance of circular No. E(D&A) 94 RG6-69, dated 4.8.97 of R.B.E. No. 82/97."

4. The Registry is directed to place the papers of this case before the Hon'ble Chairman for constituting the Full Bench for opinion on the issue referred to above.

Gopal Singh

(GOPAL SINGH)
Adm. Member

O.P. Garg

(JUSTICE O.P. GARG)
Vice Chairman