

1/60

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

**ORIGINAL APPLICATION No. 557/11**

**Date of Order : 17.02.2012**

**CORAM: HON'BLE MR. SUDHIR KUMAR, MEMBER (A)  
HON'BLE MR. V. AJAY KUMAR, MEMBER (J)**

Kanhayalal S/o Shri Ram Chandra aged 41 years, by caste Khatic R/o T-87G, New Loco Railway Colony, Ratanada, Jodhpur (Ticket Examiner/Ticket Collector) working under respondent No. 4.

.....Applicant.

*R.M.* By Mr. Suk~~esh~~ Bhati, for applicant.

**Versus**

1. Union of India through  
the General Manager,  
North Western Railway,  
Jaipur.
2. Chief Vigilance Officer (Traffic)  
North Western Railway,  
Jaipur.
3. Senior Divisional Commercial Manager,  
North Western Railway,  
Jodhpur.
4. Assistant Commercial Manager,  
North Western Railway,  
Jodhpur.
5. Enquiry Officer,  
North Western Railway,  
Jaipur.

.....Respondents.

By Mr. Kamal Dave, for respondents.

*Kamal Dave*

Date of Order : 17.02.2012

Kanhaya Lal Vs. Union of India and Others

Mr. Sukesh Bhati, present for the applicant.  
Mr. Kamal Dave, present for the respondents.

Heard both the learned counsel in detail.

2. The learned counsel for the respondents has pressed his request for vacation of the stay order staying the departmental proceedings earlier on 12.12.2011. However, the learned counsel for the applicant has pointed-out that through the orders of the Special CBI Court Annex.A/2 pages 13 to 43 of the OA, he has already been acquitted by the Criminal Court on the same charges, and, therefore, the departmental proceedings do not lie. He has submitted that through Annex.A/4, and Annex.A/5 notice sent by the counsel, the applicant had brought the fact of his acquittal to the notice of respondent-authorities, but without applying their mind to the facts on which he stood acquitted of the criminal charges under the Prevention of Corruption Act, the Inquiry Officer has again issued notice to him through Annex.A/7 page 50 dated 31.10.2011 and Annex.A/8 dated 21.11.2011, asking him to come and appear for the departmental inquiry. The learned counsel for the applicant has submitted that the respondents have failed to take into account the fact of his acquittal of the criminal charges.

3. The learned counsel for the respondents has, in turn, pointed-out that the order of acquittal of the applicant has been seen and considered, but since the disciplinary proceedings are not in respect of the Prevention of Corruption Act, but were in respect of violation of the Railway Servants (Conduct) Rules, 1966, they are being continued.

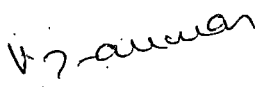
4. We have given our anxious consideration to the facts of this case and find that no proof of application of mind by the Disciplinary Authority after his having seen and perused the order of the Special CBI Judge acquitting the applicant of the Criminal charges, appears to have been passed by the Disciplinary Authority in this case. Without a proper application of mind by the Disciplinary Authority about the requirement for the continuance of the departmental inquiry for violation of the Railway Servants (Conduct) Rules, 1966, even after the acquittal of the applicant in the criminal case, perhaps the continuance of the inquiry by the Inquiry Officer, forcing the applicant to appear at the inquiry, is not proper and legally correct.


5. There is some merit in the arguments advanced by the learned counsel for the applicant. The Disciplinary Authority had earlier appointed the Inquiry Officer, who has continued with the inquiry, without the Disciplinary Authority in the meanwhile having passed

another order, ordering for such continuance of the disciplinary inquiry, after having seen and appreciated the judicial order regarding the acquittal of the applicant in respect of the criminal charges under the Prevention of Corruption Act.

6. Therefore, we remit the matter back to the Disciplinary Authority concerned to first pass a speaking order taking into consideration the judicial order of the acquittal of the applicant in respect of the criminal charges under the Prevention of Corruption Act, and his representation thereon sent through Annex.A/4, and through his counsel as Annex.A/5.

7. However, it is made clear that it is trite law that if the Disciplinary Authority still comes to the conclusion that even after the acquittal of the applicant in criminal proceedings in respect of the criminal liability under the Prevention of Corruption Act, disciplinary proceedings ought to be continued for violation of the Railway Servants (Conduct) Rules, 1966, it would be within the provisions of Law, and, the inquiry, if so ordered again by the Disciplinary Authority, can then be continued. Needless to add that the Disciplinary Authority would decide this issue in a quasi judicial manner, with full application of mind, and if necessary after giving an opportunity of being heard to the applicant before passing any order on his representation. The disciplinary inquiry shall remain stayed till the passing of the order by the Disciplinary Authority as per the above direction. With this direction, the O.A. is disposed of.

  
(V. Ajay Kumar)  
JM

  
(Sudhir Kumar)  
AM