

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 29 of 1997

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

Diwakar Singh, son of late Shortughan Singh, working as Assistant Electrical Engineer (G), Eastern Railway, Sealdah Division, residing at Officers Rest House, Bidhannagar, Railway Station, Calcutta.

..... Applicant

-Versus-

1. Union of India, represented by the General Manager, Eastern Railway, 17, N.S. Road, Calcutta - 700 001 ;
2. Chief Personnel Officer, Eastern Railway, 17, N.S. Road, Cal - 700 001 ;
3. Chairman, Railway Board, New Delhi.

..... Respondents

Counsel for the applicant Mr. A.K. Banerjee

Counsel for the respondents Mr. P.K. Arora

Heard on : 13.2.97 & 10.3.97 - Order on : 2-4-1997

O R D E R

A.K. Chatterjee, VC

This application was filed on 10.1.97 by one Shri Diwakar Singh, who was then working as Assistant Electrical Engineer in Sealdah Division of Eastern Railway seeking certain relief regarding four major penalty charge-sheets served upon him between January, 1993 and July, 1993 and still another served upon him in November, 1994. In the first four charge-sheets served in 1993, allegations were that the petitioner while working as Sr. Electrical Foreman in the period July, 1984 to 28.9.89 made irregular

requisition regarding purchase of non-stock electrical items violating the procedure resulting in huge purchase of non-stock electrical items without actual requirements and thus keeping them idle for considerable period. In the last charge-sheet, the allegations, inter alia, were that the petitioner while working as Sr. Electrical Foreman in 1988-89 ^{was} ~~was~~ one of the Supervisors In-charge of certain work contracts, got extra-work executed outside the stipulation in the agreement and also without the approval of the competent authority. The petitioner submitted a common reply to the first four charge-sheets and another reply to the last charge-sheet and although an Enquiry Officer, Sri C. Andrews was appointed in the first four cases, no such officer was appointed in respect of the last charge-sheet. The petitioner ^{has} ~~contended~~ that copies of documents relied upon as noted in the charge-sheets were ^{not} ~~made~~ available to him and the instant application was filed for quashing the charge-sheets because of the time lag between the alleged commission of misconduct and the issue of charge-sheet and subsequent delay in finalising the cases. The petitioner had also urged that DA proceeding, unless concluded would adversely affect his retiral benefit as he was due to retire on attaining the age of superannuation on 1.3.97.

2. No counter has been filed by the respondents and on the date of hearing regarding admission, the Id. Counsel for the respondents had submitted that as the relevant files were burnt in a devastating fire on 19.9.96, the files were being reconstructed on account of which the counter could not be filed by the time fixed by the Tribunal.

3. We have heard the Id. Counsel for both the parties and perused the records before us.

4. There was no controversy that the petitioner had retired on 1.3.97. It also does not appear that any substantial progress has been made in the DA proceeding and only on 4.3.97, the petitioner was informed that one Sri D.N. Ghosh, a retired railway officer would hold the preliminary and regular hearing on 21.3.97. It has been pointed out that first four charge-sheets were issued in 1993 and the last charge-sheet in November, 1994. The relevant files were said to have been destroyed in fire in September, 1996, before which the proceedings should have been reasonably concluded. However, in view of the submission made by the Id. Counsel for the respondents that relevant files are under reconstruction, we are not disposed to quash the charge-sheets only on the ground as alleged but instead, we are allowing the respondents reasonable time for finalisation of DAR case.

5. The petitioner has also stated that he was not provided with copies of documents proposed to be relied upon by the respondents. In this regard, our attention has been drawn to the letter of the Railway Board dt.10.5.94, by which the Board had accepted the recommendation of a committee, which was constituted to suggest measure so that cases could be finalised within a specified period. One of the recommendations was that photo-copy of all relied upon documents should be initially enclosed with the charge-sheets. This letter was issued by the Board in May, 1994 and circulated to all concerned in July, 1994 and, therefore, atleast so far as the last charge-sheet dt.24.11.94 is concerned, photo-copies of relied upon documents should have been enclosed in it. The remaining four charge-sheets were no doubt issued before the above letter was issued but even then it ~~is~~ incumbent upon the authorities to furnish photo-copies of relevant documents if only such a request was made.

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6. On the aforesaid premises, this application is disposed of at the stage of admission itself with the order that the photocopy of all relied upon documents shall be furnished to the petitioner within two months from the date of communication of this order and all the proceedings shall be completed within six months thereafter. In case the petitioner does not participate in the proceeding, the authorities would be quite competent to dispose of the proceeding ex-parte.

7. No order is made as to costs.

M.S. Mukherjee
2/4/97
(M.S. Mukherjee)
Member (A)

AK Chatterjee
2.5.97
(AK Chatterjee)
Vice-Chairman