

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.114/2002

Thursday this the 21st day of February, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

M.A.Hameed Dawood,
S/o M.M.Abdul Kassim,
Pharmacist Gr.II, Railway Hospital,
Shoranur, residing at
31-A Railway Quarters,
Manthope Area, Podanur,
Coimbatore district.

...Applicant

(By Advocate Mr. T.C.Govindaswamy)

V.

1. Union of India represented by
the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai.3.
2. The Senior Divisional Medical Officer,
Southern Railway Hospital,
Podanur, Coimbatore District.

..Respondents

(By Advocate Mr. P. Haridas)

The application having been heard on 21.2.2002, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant who is working as Pharmacist Grade II in the Railway Hospital, Shoranur was served with a Memorandum of Charge dated 17.2.2000 issued by the 2nd respondent alleging that he outraged modesty of one Ms.K.S.Sunita by words and actions. He was charge-sheeted by the Criminal Court for the self same accusation of outraging modesty of one Ms. Sunita on the same date. The Special Judicial Magistrate, Coimbatore in CC 14/2001 by judgment dated 5.9.2001 finding that the prosecution failed to prove the case against the applicant, acquitted the applicant off the charge under Section 354 of the Indian Penal Code. After pronouncement of the judgment by the

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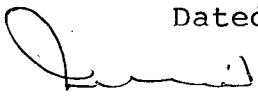
Judicial Magistrate, the applicant on 24.9.2001 requested the disciplinary authority (2nd respondent) to withdraw the charges as the matter cannot be further proceeded with since the competent Criminal Court has acquitted him. Finding no response and apprehending that the applicant would again be proceeded with departmentally, the applicant has filed this application for the following reliefs:

- (a) Call for the records leading to the issue of Annexure.A1, declare that the continuation of the disciplinary proceedings initiated in terms of Annexure.A1 in the light of Annexure.A2/A.2(a), is totally arbitrary, discriminatory, contrary to law and unconstitutional, and quash the same, or in the alternative.
- (b) Direct the 2nd respondent to consider Annexure.A3 duly taking into consideration Annexure.A2/A2(a) and pass appropriate orders thereof, with due intimation to the applicant.
- (c) Award costs of and incidental to this application.
- (d) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

2. When the application came up for hearing today, Shri P.Haridas, learned counsel for the respondents stated that as the accusation before the Criminal Court as also in the Memorandum of Charges are identical and the witnesses shown in the Memorandum of Charges and examined before the Criminal Court are the same, the respondents do not wish to contest the case of the applicant and that no further proceedings on the Memorandum of Charge (A.1) would be taken.

3. Taking note of the above statement, the application is allowed directing the respondents to recall the Memorandum of Charges (A.1) and not to proceed against the applicant under Rule 9 of the Railway Services (Discipline and Appeal) Rules for the same set of allegations contained in Annexure.A1 as also in the judgment A2. No costs.

Dated the 21st day of February, 2002


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the Charge Memo No.SDH/PTJ/DAR/MAH of 17-2-2000 alongwith its Annexures, issued by the 2nd respondent.
2. A-2: True copy of the judgement of the Special Judicial Magistrate No.VII of Coimbatore, in C.C.No.14/2001 dated 5th September, 2001.
3. A-2(a): True English translation of Annexure A-2.
4. A-3: True copy of the representation dated 24.9.2001 submitted by the applicant to the 2nd respondent.

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