

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

T.A.NO. 2255/86 : Date of order: 3.7.93
Krishna Prasad Shukla : Applicant.
Mr. J.K. Kaushik : Counsel for the applicant.

VERSUS

Union of India & Ors. : Respondents.
Mr. G.P. Soral : Counsel for the respondents.

CORAM:

HON'BLE MR. B.B. MAHAJAN, ADMINISTRATIVE MEMBER

HON'BLE MR. GOPAL KRISHNA, JUDL. MEMBER

PER HON'BLE MR. B.B. MAHAJAN, ADMINISTRATIVE MEMBER

Krishna Prasad Shukhla had filed a Civil Suit in the Court of Munsif, Kota against the notice issued to him under Rule 25 of the Railway Servants (Disciplinary & Appeal) Rules, 1968 (Rules for short) to show-cause as to why the penalty of removal from service may not be imposed on him. The Suit has been transferred to this Tribunal under Sec. 29 of the Administrative Tribunals Act, 1985, and registered as T.A.No. 2255/86.

2. The applicant has stated that on 30.5.1979 when he was on duty as T.T.E. in 172 Up Jammu Tavi Express at New Delhi Railway Station, he found that certain passengers were travelling without valid tickets. He charged Rs. 1400/- from them as fare and

penalty against the receipt for the same amount. He was not awarded by the defendant Railway Administration for loyalty, honesty and discharge of duty. After paying an amount of Rs. 1400/- a passenger, however, gave a Notice to Railway Administration through his Advocate that the applicant had received illegal gratification of Rs. 200/- and harassed him whereupon a charge-sheet was issued to him and the enquiry officer submitted his report. Apprehending that his services may be terminated the applicant filed a suit for permanent injunction in the Court of Munsif, Kota. The respondents submitted their reply stating that there is no order of termination against the plaintiff/applicant. Not only was this statement made but an order was issued by the Divisional Railway Manager, Kota on 9.2.83 (Copy of which has been produced in the Civil Court and marked as Annexure.3/16) stating that the major penalty action initiated against him had been dropped by the Competent Authority. In view of this order the applicant made a statement before the learned Munsif that he does not wish to pursue the Suit and the same was accordingly dismissed. Therefore, the impugned Notice was issued on 5.7.83 by the Chief Commercial

Part 17

Superintendent, Western Railway, Churchgate, Bombay, under Rule 25 of the Railway Servants (Disciplinary and Appeal) Rules, 1963 (^{Rule}~~W.S.D.A.~~ for short). (copy of which has been produced in the Civil Court and marked as Annexure.C/2/12/ stating that he proposes to removing him from service indicating the reasons for the proposed action. Against that Notice the applicant had filed the present Suit for declaration and injunction.

3. We have heard the learned counsel for the parties.

4. The learned counsel for the applicant has argued that once the Railway Administration had dropped the proceedings against the applicant unconditionally and had him made not to press the Suit for permanent injunction filed earlier it was not now open to them to revive those proceedings and the rule of estoppel applies in this case.

5. The learned counsel for the respondents has argued that the Divisional Railway Manager, Kota had not re-opened the case after the Suit had been dismissed as not pressed but the revising authority in exercise of the powers conferred upon it by Rule 25 of the Rules had issued the impugned notice.

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6. We have carefully considered this matter. There is no evidence or even averment that any statement had been made on behalf of ~~all~~ the defendants in the earlier suit that the proceedings against the applicant were being dropped. The D.R.M., who was one of the respondents had no doubt dropped those proceedings during the pendency of the earlier Civil Suit. The order of learned Munsif dismissing the suit did not state that any assurance was held out by the defendants to plaintiff/ applicant that no proceedings will be taken against him on that charge-sheet. The Suit had become infructuous at that stage. As the enquiry proceedings had been dropped by the disciplinary authority and the plaintiff/ applicant, therefore, did not press that suit, That would, however, not preclude the reviewing authority from exercising statutory powers under Rule 25 of the Rules. There is no estoppel against statute. The learned counsel for the applicant states that there is no evidence against the applicant and he has only been harassed for performing his official duties honestly.

The ~~learned counsel for the~~ applicant in reply to the show-cause notice will have full opportunity of stating his case . There is no justification for interfering with the show-cause notice at this stage.

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7. In view of the above discussion, the suit is dismissed and the stay order is vacated. The applicant may now submit his reply to the impugned show-cause notice to the reviewing authority within a period of one month from this order. The T.A. stands disposed of. Parties to bear their own costs.

G.Krishna
(GOPAL KRISHNA)
Judl. Member

B.B. Mahajan
(B.B. MAHAJAN)
Adm. Member

Anil