

IN THE CENTRAL ADMINISTRATIVE TRIPUNAL, JAIPUR BENCH, JAIPUR
O.A.No.380/97

Date of order: 25.4.2001

S.K.Kulshreshtha, S/o Sh.Frem Bahadur Kulshreshtha,
Station Supdt, Koraoli Rly.Station, Agra.

...Applicant.

Vs.

1. Union of India through General Manager, W.Rly, Churchgate, Mumbai.
2. Sr.Divisional Operations Manager, Kota Division, W. Railway, Kota.
3. Divisional Traffic Inspector, Kota Division, W.Rly, Kota.

...Respondents.

Mr.R.K.Thripadhi) - Counsel for applicant

Mr.M.Siromani)

Mr.M.Rafiq)- Counsel for respondents.

Mr.Hemant Gupta)

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.A.P.Nagrath, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash the charge-sheet dated 10.6.97 (Annx.Al) and to quash if any enquiry is held in pursuance of the charge-sheet and to allow all consequential benefits.

2. Facts of the case as stated by the applicant are that while working as Station Superintendent, Rly.Station Kiraoli, a charge-sheet was issued on 10.6.97. It is stated that the enquiry officer was appointed vide order dated 23.6.97 without serving the charge-sheet to the applicant and without inviting any explanation from the applicant and disciplinary proceedings were initiated. The applicant requested to stop

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the enquiry proceedings on the ground of illness and that he was not served with any chargesheet but nothing was done. It is stated that the applicant was promoted during the period from 1980 to 1995 as mentioned in para 9 of the O.A, therefore the effect of the charges have already been washed out. It is stated that the impugned charge-sheet Annex. Al is ex facie illegal, arbitrary, malacious and in violation of Articles 14, 16 and 20 of the Constitution. It is stated that the impugned charge sheet is no chargesheet at all but simply the compendium of various chargesheets earlier served with the punishments awarded therefore, no enquiry whatsoever can be initiated on the basis of this chargesheet. It is also stated that the charges of careless and negligent working has been levelled on the basis of previous chargesheets and not on the basis of any incident happened thereafter. Therefore, the charges are totally vague and baseless and the impugned chargesheet is hit by the principle of double jeopardy. It is also stated that the applicant has not been provided with the reasonable opportunity of hearing before initiating the disciplinary proceedings, therefore, the chargesheet is ex facie illegal, malafide and arbitrary and liable to be quashed as such. Therefore, the applicant filed the O.A for the relief as above.

3. No reply has been filed inspite of giving repeated opportunities to the respondents.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the respondents argued that the Tribunal cannot examine the correctness of the charges at the stage of enquiry and in support of his contention, he has referred (i) Union of India & Ors Vs. Upendra Singh, (1994) 3 SCC 357 and (ii) District Forest Officer Vs. R.Rajmanickam &

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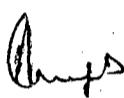
Anr, (2000) 9 SCC 284. The citations as referred by the counsel for the respondents do not help the respondents in any way.

6. In disciplinary proceedings, the Court/Tribunal can interfere at the chargesheet stage if the charge levelled against the delinquent is vague, baseless and no misconduct or other irregularity is made out or the same is contrary to any law. The jurisdiction of the Tribunal in this regard is akin to the jurisdiction of the High Court under Article 226 of the Constitution. Therefore, the principles, norms and the constraints which apply to the said jurisdiction apply equally to the Tribunal. In the instant case, the charge upon the applicant is regarding carelessness and negligent working which based upon the punishment awarded to the applicant earlier. A list of penalties total 13 in number is also inserted in the chargesheet but there is no specific allegation of carelessness and negligent working of the applicant on a particular date and time or during a particular period. On a perusal of the chargesheet, it appears that it is merely a compendium of various punishments earlier awarded and undergone by the applicant and on such basis, the allegation of carelessness and negligent working levelled against the applicant is baseless, therefore, on such a baseless and groundless charge, no enquiry should have been initiated. At the most the penalties imposed earlier on the delinquent can be made a basis for imposing higher penalty. It is also important to mention here that the applicant was not given opportunity to submit the reply to the chargesheet before appointment of enquiry officer and straight away the enquiry officer was appointed, therefore, it appears that the department wanted to serve a chargesheet upon the applicant on the basis of one pretext or the other. The applicant has already been punished for the charges as mentioned in the

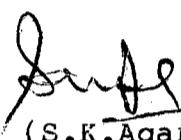
chargesheet and the applicant has also been promoted from 1980 to 1995, therefore, in view of the malicious charges which do not constitute any misconduct, the enquiry will be only an abuse of the process of law. Therefore, in our considered view, the impugned chargesheet is liable to be quashed.

7. We, therefore, allow the O.A and quash the impugned chargesheet dated 10.6.97 (Annex.A1) and direct the respondents not to conduct any enquiry in pursuance of this chargesheet.

8. No order as to costs.


(A.P.Nagrath)

Member (A).


(S.K.Agarwal) 25/4/2001

Member (J).