

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA No.258/2002

DATE OF ORDER : 22.11.2002

Adityendra Bahadur Kulshrestha son of Shri Balkrishan Kulshrestha, aged about 28 years, O/o Sr. Divisional Mechanical Engineer/Divisional Railway Manager (Establishment), Jaipur Railway Division, Jaipur.

....Applicant.

VERSUS

1. Union of India through General Manager, Western Railway, Head Office, Churchgate, Mumbai.
2. Shri Ramesh Kumar, Sr. Divisional Mechanical Engineer (Establishment), Western Railway, Jaipur Railway Division, Jaipur.
3. Shri Anand Swaroop Gautam, Sr. Section Engineer, Carriage and Wagon, Jaipur Railway Division, Jaipur.

....Respondents.

Mr. R.B. Kulshrestha, Counsel for the applicant.

Mr. T.P. Sharma, Counsel for the respondents.

CORAM

Hon'ble Mr. G.C. Srivastava, Member (Administrative)

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

ORDER (ORAL)

PER HON'BLE MR. G.C. SRIVASTAVA, MEMBER (ADMINISTRATIVE)

Heard the learned counsel for the parties.

2. IN this OA the applicant was working as Section Engineer under the respondents & has challenged the penalty of stoppage of increments for two years without cumulative effect vide order dated 13.3.2001 (Annexure A/4) as also the order of the Appellate Authority dated 29.5.2001 (Annexure A/1) and sought direction that the impugned orders be quashed and set aside.

CJ

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3. The argument advanced by Mr. R.B. Kulshrestha, learned counsel for the applicant, is that after charge sheet was issued to the applicant under Rule 11 of the Railway Servant (Discipline & Appeal) Rules, 1968, the applicant has requested vide his application dated 8.2.2001 (Annexure A/5) requesting the department to supply the copies of certain documents. According to him, the respondents did not consider supplying the copies of documents and have issued the impugned order merely stating that the documents asked for by the applicant are irrelevant. It is due to this that the applicant has contended that he has been denied the opportunity of submitting of proper defence against the said charge.

4. The respondents have contested the OA and have filed detailed reply stating, inter-alia, that since this is a case of minor penalty, it is not necessary for the respondents to supply documents asked for by the applicant as the same were irrelevant and accordingly the impugned order was issued after considering the reply of the applicant.

5. We have heard the learned counsel for both the parties and find that after issue of charge sheet applicant had requested vide his letter dated 8.2.2001 (Annexure A/5) requesting for supply of copies of certain documents. We also find that one of the documents is the Joint Inspection Report of the Train No. 9769 for hose pipe of Coach No. 34276 GS/FN dated 10.11.2000. We are of the considered view that this document was essential in order to enable the applicant to submit his proper defence to the charge sheet. We note that the applicant has clearly stated in his application that he would like to have the copies of the documents before his submitting the reply to the charge sheet. In view of this the letter dated 8.2.2001, cannot be treated as a final reply to the charge sheet and can at best be treated as an interim reply to the charge sheet. As per instructions of the Railway Board as contained in Railway Servants (Discipline & Appeal) Rules, 1968, after receiving the charge sheet, the delinquent employee can request for permission to inspect the additional documents which are relevant to the charges framed against

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him but have not been relied upon by the disciplinary authority. After receiving such a request from the delinquent Railway servant, the disciplinary authority should fix up the date, time and place where the delinquent employee can inspect the documents and take the extract therefrom. So far as the additional documents are concerned, the disciplinary authority should permit the inspection of such documents also if it is of the opinion that the documents in question are relevant to the charges. If the disciplinary authority is of the view that some of the additional documents asked for by the delinquent are not relevant to the charges, it should advise the delinquent accordingly giving reasons therefor.

6. In the instant case, the applicant was denied copy of Joint Inspection Report. The Disciplinary Authority has straight-away passed an order of imposing penalty merely stating that the documents asked for by him are not relevant and has not recorded as to why the documents are not relevant. Therefore, we are of the considered view that the action on the part of the respondents in not giving copies of the documents or allowing inspection by the applicant is in violation of the Railway Board's instructions and against the principles of natural justice and hence the impugned orders 13.3.2001 (Annexure A/4) and 29.5.2001 (Annexure A/1) are not sustainable in law and are hereby quashed and set aside. However, it will be open to the respondents to proceed further from the stage of issue of charge sheet either after supplying copies of the documents or allowing inspection thereof in case the documents asked for by the applicant are irrelevant after communicating reasons therefor to the applicant and after receipt of the final reply from the applicant, pass such order as considered necessary according to rules and regulations.

7. With the above directions, the OA is disposed of. No order as to costs.


(M.L. CHAUHAN)
MEMBER (J)


(G.C. SRIVASTAVA)
MEMBER (A)