

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 25.11.2004

Original Application No.60/2003.

Mr. Mahendra Singh, S/o Shri Nand Singh, aged 26 years, by caste Singh, r/o Gatiyali Via Phagi, District Jaipur.

... Applicant.

v e r s u s

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai-20.
2. Deputy controller of Stores, Western Railway, Ajmer.
3. Assistant Controller of Stores (Diesel), Diesel Depot, Abu Road.
4. The General Manager, North Western Railway.

... Respondents.

Mr. S. K. Jain counsel for the applicant.
Mr. U. D. Sharma counsel for the respondents.

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Hon'ble Mr. M. L. Chauhan, Judicial Member.
Hon'ble Mr. A. K. Bhandari, Administrative Member.

: O R D E R (ORAL) :

The applicant has filed this OA against the order passed by the Disciplinary Authority thereby praying for the following reliefs :-

"(i) That by an appropriate order or direction, the charge-sheet dated 1.11.2001 Annexure A/2 be quashed and set aside.

(ii) That by an appropriate order or direction, the impugned order of imposition of penalty dated 24.1.2002 Annex. A/1 be quashed and set aside and the respondents be directed to reinstate the applicant with all consequential benefits.

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(iii) Any other relief which this Hon'ble Tribunal deems fit may also be granted to the humble applicant, looking to the facts and circumstances of the present case."

2. Notice of this application was given to the respondents. Respondents have filed reply. In the reply, it has been stated that the applicant has not availed the statutory remedy by way of appeal which he was entitled to prefer to the Appellate Authority as per Rule 18(ii) of the Railway Servants (Discipline & Appeal) Rules, 1968. In view of the stand taken by the respondents in the reply affidavit, we are of the view that the applicant should have exhausted the effective remedy by way of appeal which was available to him and as per provisions contained in Administrative Tribunals Act, the OA can ordinarily be entertained after the applicant has exhausted all statutory/departmental remedies.

3. In view of what has been stated above, it will be in the interest of justice to direct the applicant to prefer an appeal under Rule 18(ii) of the Railway Servants (Discipline & Appeal) Rules, 1968 to the Appellate Authority. In that eventuality, the Appellate Authority shall decide the appeal on merit. Accordingly, the applicant is directed to file the appeal to the Appellate Authority within a period of one month from the date of passing this order. In that eventuality, the Appellate Authority shall entertain the same and decide the appeal on merit within two months from the date of receipt of the appeal of the applicant. With these directions, the OA is disposed of with no order as to costs.

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(A. K. BHANDARI)
MEMBER (A)

W. L. CHAUHAN
(M. L. CHAUHAN)
MEMBER (J)