

Central Administrative Tribunal
Jabalpur Bench

OA No.264/2006

Jabalpur, this the 27th day of April 2006.

C O R A M

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Smt.Meera Chhibber, Judicial Membr

Sushil Kumar Jaiswal
S/o late Phool Chand Jaiswal
R/o House No.2001
West Ghampur
Near Shitla Mai,
Jabalpur.

Applicant

(By advocate Shri A.P.Singh)

Versus

1. Union of India through
Its Secretary
Ministry of Railways
Rail Bhawan
New Delhi.

2. Assistant Personnel Officer (T)
Divisional Railway Manager's Office
West Central Railway
Jabalpur.

3. Enquiry Officer
CEI Headquarters
West Central Railway
Jabalpur.

Respondents

(By advocate: None)

O R D E R

By Smt.Meera Chhibber, Judicial Member

By this OA, applicant has sought quashing of charge sheet dated 20.1.2004 (Annexure A-2) and the impugned findings dated



4.4.06 (Annexure A7). He has been sent a copy of the findings calling upon him to give a representation within 15 days.

2. It is submitted by applicant that in 1992, a policy was taken by respondent No.1 to give employment to those who worked as Casual Labourers in the Railway Administration. Pursuance to the policy decision, applicant was selected and was given appointment in July 2003. Since then he has been doing his work with utmost sincerity and honesty. Since applicant was not keeping a good relation with his brother who is a member of the Union, his brother engineered a complaint against applicant in the newspapers that as many as 79 persons who had submitted their service record were having doubtful appointments. However, no action was taken against those against whom complaint was made except the applicant who alone was suspended from service on 20.1.2004 and was also issued a show cause notice calling for clarification. He gave a detailed reply, but yet he was charge sheeted.

3. Counsel for applicant has submitted that the authorities are bent upon to terminate the services of the applicant at the behest of his brother who is a Union leader and if he is not protected at this stage, his services will definitely be terminated. Therefore, it is necessary to protect his services at this stage.

4. We have heard counsel for the applicant and perused the OA as well. Hon'ble Supreme Court has held that Tribunals and Courts should not interfere ~~with~~ ^{at the stage of B} issuance of charge sheet or show cause notice because that is premature. After all, enquiry has been conducted wherein findings have been arrived at by the enquiry officer and the ~~at~~ ^{findings of} ~~been~~ given to the applicant to make a detailed representation ~~thereas hav~~ ^{arrived at B}. All those grounds, which the applicant wishes to take, can be taken by him in the form of a representation. It would be on the basis of the findings ~~adduced~~ ^{arrived at B} and after considering his representation that the disciplinary authority ~~can~~ ^{would} pass final orders. We cannot encroach upon the right, which is vested in the disciplinary authority by interfering at this stage.

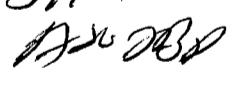
5. In the case of UOI Vs. Upendra Singh, reported in JT 1994 p.658, Hon'ble Supreme Court has held that Tribunal has no jurisdiction to go into the correctness of the charges, as the Tribunal cannot take over the function of the disciplinary authority. Disciplinary authority has to go into the truth or otherwise of the charges. Same view was taken by Hon'ble Supreme Court in the case of UOI Vs. Ashok Kakkad 1995 Suppl. 1 SCC 180. The charge sheet was challenged in the said case without filing reply or waiting for the decision of the disciplinary authority. Yet the Tribunal had quashed the charge sheet. Hon'ble Supreme Court had quashed the order of the Tribunal by observing that such matter would be premature. We are therefore, satisfied that at this stage, we cannot interfere in the OA. Therefore OA is dismissed as premature. However, applicant is permitted to file reply to the impugned findings dated 4.4.2006 within 2 weeks from the date of receipt of a copy of this order. In case he is aggrieved by the final order to be passed by the disciplinary authority, he is free to challenge in accordance with law.

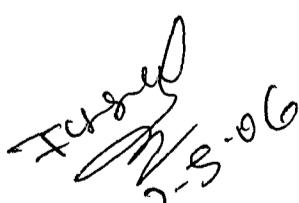

 (Smt. Meera Chhibber)
 Judicial Member


 (Dr. G.C. Srivastava)
 Vice Chairman

22.

पृष्ठांकन सं. ओ/न्या.....जलपुर, दि.....
 प्रतिलिपि द्वारा दिया गया
 (1) सचिव, उच्च अदायक, विधायिका, जलपुर
 (2) आदेता द्वारा दिया गया
 (3) प्रत्यक्षी द्वारा दिया गया
 (4) वांछिता, द्वारा दिया गया
 सूचना एवं आदेता, जलपुर



 द्वारा दिया गया


 द्वारा दिया गया