

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 321 of 2002

Jabalpur, this the 27th Day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)  
Hon'ble Mr. R.K. Upadhyaya- Member (Admnv.)

Lal Chakradhar Singh son of Late  
Shri C.B. Singh, aged about 35 years,  
Posted as Asstt. Station Master  
at Ehedagaht Railway Station,  
C.Rly, Jabalpur (M.P.)

APPLICANT

(By Advocate- Shri B.K. Pandit)

VERSUS

1. Union of India,  
Through Secretary,  
Rail Mantralaya, Rail Bhawan,  
New Delhi.
2. The General Manager,  
Central Railway, Mumbai.
3. Divisional Rail Manager,  
Central Railway, Jabalpur (M.P.)
4. Senior Divisional Operating Manager  
Central Railway, Jabalpur.
5. Divisional Operating Manager,  
Central Railway, Jabalpur.
6. Senior Divisional Safety Officer,  
Central Railway, Jabalpur,
7. Traffic Inspector, (S.S.Birha)  
Central Railway, Jabalpur.
8. Training Instructor (Area Training  
School) Central Railway Jabalpur/  
Previous Enquiry Officer/A.K. Yadav.
9. Area Officer/Manager, C.Rly, Satna/  
Present Enquiry Officer/S.K. Sharma.

RESPONDENTS

(By Advocate Shri M.N. Banerjee)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

Applicant in the OA has challenged the  
chargesheet issued on 20.8.2001 on various grounds and  
has sought quashment of the same.

2. During the pendency of the OA in the reply filed by the respondents it has been stated that the enquiry was completed and on the basis of the finding submitted by the enquiry officer, disciplinary authority by an order dated 15.5.2002 imposed upon applicant a penalty of removal, a copy of which was sent to applicant.

3. In this backdrop MA-1731/2002 has been filed by applicant to amend the OA and MA-179/2003 for calling documents.

4. MA-364/2003 filed by applicant contains a prayer to stay the operation of removal taking resort to the decision of the Apex Court in Union of India v. D.S. Karekar, 1998 (7) SCC 569 by contending that the punishment order has been passed on the file but not actually communicated, as it has not been sent to applicant.

5. On the other hand, respondents' counsel contended that as the punishment of removal has been passed applicant has to exhaust the statutory remedy of appeal under the Railway Servants (Discipline & Appeal) Rules, 1968 and the contention of applicant that the order of removal has been set aside and directions have been issued to re-instate him is not well founded and is wrong.

6. We have carefully considered the rival contentions of the parties and perused the material on record, Once during the pendency of the OA which has been directed against the chargesheet, a penalty order has been issued against which an OA does not lie unless applicant exhausts statutory remedy

available to him under the aforesaid Rules. In so far as stay of removal is concerned, though the aforesaid order has been despatched to applicant but having filed alongwith the reply filed on 17.5.2002 which has been received by applicant is a valid and legal service of order of removal. Accordingly, the prayer for stay of removal is rejected.

7. However, keeping in view the facts and circumstances and the fact that OA was sub-judiced before us, ends of justice would be duly served if the present OA is disposed of with the direction to applicant to exhaust the remedy available to him under the Rules against the order of removal and the respondents are directed not to reject the appeal on the ground of limitation. If applicant is still aggrieved by an order passed by respondents he shall be at liberty to approach this court afresh in accordance with law, if so advised. We order accordingly. No costs.

(R.K. Upadhyaya)  
Member (A)

(Shanker Raju)  
Member (J)

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