

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
Original Application No. 501 of 2002

Jabalpur, this the 7th day of July, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman (Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

M.S. Farooqi
S/o Shri M.U. Farooqui
Aged about 38 years,
Working as Laboratory Supt.
Central Railway Divisional
Hospital, Nishatpura Bhopal.
R/o G-25 East Railway Colony,
Bhopal.

APPLICANT

(By Advocate - Mr. Sanjay Verma)

VERSUS

1. Union of India
through the Divisional Rail Manager,
Central Railway Bhopal.
2. Senior Divisional Medical Officer,
Central Railway Bhopal
3. Enquiry Officer (H.Q.)
Vigilance Branch,
C.S.T. Mumbai.

RESPONDENTS

(By Advocate - Shri H.B. Shrivastava)

ORDER (ORAL)

By Anand Kumar Bhatt, Administrative Member-

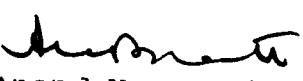
This O.A. is against the order of the disciplinary authority to start a fresh enquiry against the applicant by appointing a fresh enquiry officer and quashing of the previous enquiry.

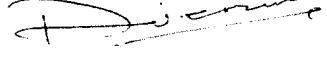
2. The facts in brief are that the applicant is working as Laboratory Superintendent in Central Railway Hospital at Bhopal. A charge sheet was issued on 3.10.1997 (Annexure-A-2) and an enquiry was conducted. The enquiry officer completed the departmental enquiry and submitted the enquiry report to the disciplinary authority. The latter enclosing a copy of the enquiry report (Annexure-A-15) asked explanation of the applicant (Annexure-A-14). The applicant submitted his representation to the respondent

No.2 on 4.6.2001. However, the disciplinary authority by his order dated 25.5.2002 (Annexure-A-1) appointed another enquiry officer to conduct a de novo enquiry against him. According to the applicant such action on the part of the disciplinary authority is not according to the provisions contained in the Railway Servants (Discipline & Appeal) Rules, 1968.

3. Heard the counsel on both the sides at length. The learned counsel of the applicant has cited a previous judgment of Jabalpur Bench of the Tribunal in the case of a co-delinquent Girish Goyal vs. Union of India & others (OA No. 476/2002). This case has relied on a previous judgment of this Tribunal in the case of Surendra Kumar Shrivastava vs. Union of India and others, O.A. No. 622 of 1998 decided on 27.2.2001 which was of a similar nature. In that case it was held that conducting a fresh enquiry by appointing another enquiry officer is not permissible under law and that the disciplinary authority could remit the case to the enquiry officer if there were no findings with regard to any article of charge or if the laid down procedure was not followed by recording reasons. It was further held that if the disciplinary authority disagreed with the findings of the enquiry officer, he could record his reasons for such a disagreement and record his own findings on such charge. Due to this lacuna the orders of the disciplinary and appellate authorities were quashed.

4. On the lines of the above decisions in the cases cited above, the appointment of fresh enquiry officer and start of enquiry de novo (Annexure-A-1) is quashed. The disciplinary authority shall be at liberty to decide the case based on earlier enquiry report. This OA is accordingly allowed. No costs.


(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
vice Chairman (Judicial)

कृष्णकुल रो. ३०/ब्ला..... जबलपुर. दि.....

प्रतिलिपि दावोदाता:-

(१) श.विल्हेम ब्राह्मिंद दावोदाता, जबलपुर

(२) श. विल्हेम ब्राह्मिंद के काउंसल

(३) श. विल्हेम ब्राह्मिंद के काउंसल

(४) श. विल्हेम ब्राह्मिंद, जबलपुर नगरपालिका

सूचिता एवं जापानक कार्यसाधी देवु

S. Vessmu.
H. B. Shrivastava

✓ Ksh

मा. रजिस्ट्रार

11-7-03

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