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24.05.2007

OA No. 240/2006

Mr. C.B. Sharma, Counsel for applicant.
Mr. R.G. Gupta, Counsel for respondents.

Heard. The OA is disposed of by a separate order, for the reasons recorded therein.

(TARSEM LAL)
MEMBER (A)

✓
(KULDIP SINGH)
VICE CHAIRMAN

AHQ

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

Jaipur, the 24TH day of May, 2007

ORIGINAL APPLICATION NO. 240/2006

CORAM:

**HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN
HON'BLE MR. TARSEM LAL, MEMBER (ADMN.)**

Nanga Singh son of Shri Poonam Singh aged about 54 years, resident of Village Gudli Post Office Beer District Ajmer and presently working as Gangman, Gangman No. 13, Ladupura (Kishangarh), District Ajmer, North Western Railway, Jaipur.

By Advocate: Mr. C.B. Sharma

.....Applicant

Versus

1. Union of India through General Manager, North Western Zone, North Western Railway, Jaipur.
2. Divisional Engineer (West), North Western Railway, Jaipur Division, Jaipur.
3. Assistant Divisional Engineer, North Western Railway, Phulera Junction, Phulera (Jaipur).

By Advocate: Mr. R.G. Gupta

.....Respondents.

ORDER (ORAL)

Applicant has filed this OA seeking for the following reliefs:-

- (i) That the entire record relating to the case be called for and after perusing the same respondents may be directed not to proceed in disciplinary proceedings further by quashing



charge-memo dated 6.6.2006 (Annexure A/1) with all consequential benefits.

- (ii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iii) That the cost of this application may be awarded."

2. The main thrust of the applicant is that he was removed from service on the ground of unauthorized absence. The applicant challenged the same by filing OA, registered as OA No. 563/2001, which was decided on 05.12.2003 whereby the impugned removal from service order was quashed with the following directions:-

"12. Consequently the impugned SF-5 dated 6.8.1998/1.9.1998 (Annexure A/1), NIP dated 7.12.1999 (Annexure A/2), imposing the penalty of removal from service and Appellate order dated 9.5.2001 (Annexure A/3) are hereby quashed. It is made clear that in case the respondents wants to proceed with the matter, in that eventuality, the respondents should enclose the list of documents and list of witnesses alongwith the charge memo so that full opportunity can be given to the applicant to defend his case against the charge to be leveled against him."

3. The case of the applicant is that thereafter he had filed another OA seeking protection of pay and fixation of his pay in which notices were issued on 08.12.2004 but again the respondents have issued charge sheet to the applicant vide



order dated 06.06.2006 (Annexure A/1). The applicant challenged the same in this OA. Notice of this OA issued to the respondents. While issuing the notices, the Court has also observed that respondents shall met the point they have issued the charge sheet belatedly. However, vide order dated 05.04.2007, the respondents were directed not to proceed in the disciplinary proceedings and not to take action as per the enquiry report. But still the respondents have passed the final order imposing penalty of stoppage of one increment on the basis of the same charge sheet. The applicant has now filed an appeal against that order.

4. In view of the facts & circumstances of the case, we are of the opinion that in view of the subsequent development, the present OA has almost become infructuous, the same has to be dismissed. Since the applicant has also filed an appeal against the order passed by the respondents and order is likely to be passed by the Appellate Authority, the learned counsel for the applicant requested that he may be allowed to challenge the order passed by the Appellate Authority by filing fresh OA and also to take pleading regarding delay in issuing the charge sheet. In the subsequent development, we think

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that the respondents will not have any objection regarding the same.

5. Accordingly, we permit the applicant to file fresh OA in which he is a liberty to challenge the order passed by the Appellate Authority and also the pleadings regarding delay in issuing the charge sheet.

6. With these observations, the OA is disposed of accordingly with no order as to costs.

Tarsem Lal
(TARSEM LAL)
MEMBER (A)

Kuldip Singh
(KULDIP SINGH)
VICE CHAIRMAN

AHQ