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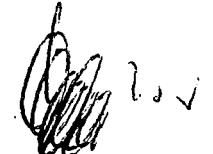
Mr. C.B. Chaturvedi, counsel for applicant.

Mr. Arunam Agarwal, counsel for the respondents.

Heard the learned counsel of the parties.

The parties stand disposed of by a separate order.


(T.P. Srivastava)
M(A)


(M.L. Chaturvedi)
M(S)

N IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 18th day of January, 2007

ORIGINAL APPLICATION NO. 46/2006

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.J.P.SHUKLA, ADMINISITRATIVE MEMBER

R.P.Meena,
Vice Principal,
Zonal Railway Training Institute,
North Western Railway,
Udaipur.

By Advocate : Shri C.B.Sharma

... Applicant

Versus

1. Union of India through Chairman, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
2. General Manager, North Western Zone, North Western Railway, Jaipur.

By Advocate : Shri Anupam Agarwal

... Respondents

ORDER (ORAL)

This OA has been filed by the applicant thereby
praying for the following relief :

- "i) That entire record relating to the case be called for and after perusing the same disciplinary proceedings against the applicant be quashed and set aside with the charge memo dated 31.7.2001 (Ann.A/5) with further proceedings with all consequential benefits.
- ii) That the respondents be further directed to consider the applicant for due promotions from the date junior so promoted with all consequential benefits."

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2. Briefly stated, the facts of the case are that initially the applicant filed OA No.287/2003 praying inter-alia that an order or direction may be given to the respondents to complete the disciplinary proceedings within 30 days. This Tribunal after considering the matter disposed of the OA, vide order dated 13.10.2003, with a direction to the respondents to complete the departmental inquiry proceedings as far as possible within four months from today. Thereafter, the respondents moved an MA (No.59/2004) for extension of time. The said MA was decided by this Tribunal vide order dated 12.2.2004 and further three months time was granted to the respondents to complete the departmental inquiry proceedings and to comply the order of this Tribunal. It appears that the respondents again moved an MA (No.159/2004) for further extension of time. This Tribunal, vide order dated 7.5.2004, also disposed of the said MA with a direction to the disciplinary authority to take appropriate action on the report submitted by the inquiry officer within 15 days from the date of receipt of the reply of the charged officer on inquiry report. This Tribunal further observed that the inquiry report should be submitted to the applicant within 15 days and as such it was also made clear that the final action on the inquiry report shall be concluded by the disciplinary authority on or before 15.7.2004 in case the reply to the inquiry report is submitted by the charged officer by 30.6.2004.

3. This order of the Tribunal was challenged by the applicant by filing a writ petition (No.4313/2004) before the Hon'ble High Court. It may be stated here that the applicant has not challenged the original order dated 13.10.2003, passed by this Tribunal in OA 287/2003. It may also

be relevant to observe here that the prayer made by the applicant before the Hon'ble High Court in the writ petition was that appropriate writ or direction may be issued thereby directing the respondents to set aside/quash the departmental inquiry proceedings against the petitioner. It is also clear from the material placed on record that during the pendency of the writ petition before the Hon'ble High Court, the applicant obtained stay order. As such, further action on the inquiry report could not be taken by the disciplinary authority. However, the said writ petition was finally disposed of vide order dated 25.7.2006, whereby the Hon'ble High Court has observed as under:

"An application has been filed by the petitioner seeking permission to withdraw this writ petition. Counsel Shri R.N.Mathur submits that during pendency of the writ petition, the inquiry was concluded and report has been submitted to the disciplinary authority but final decision is not being taken, and a direction may be issued to take final decision. If it is a fact that inquiry report has been submitted, it is expected that final decision on the report shall be taken without any further delay, if not already taken.

With this observation, the petition is dismissed as withdrawn."

4. We have heard the learned counsel for the parties and gone through the material placed on record.

5. Learned counsel for the respondents raised an objection regarding maintainability of this OA on the face of the order passed by the Hon'ble High Court in DB Civil Writ Petition No.4313/2004, relevant portion of which has been extracted above.

Learned counsel for the applicant argued that the present OA is still maintainable. We have given due consideration to the submission made by the learned counsel for the applicant. We are of the firm view that the present OA is not maintainable. The challenge made by the applicant in this OA, which was filed during the pendency of the proceedings before the Hon'ble High Court, was that the action of the respondents in connection with not finalising the disciplinary proceedings within the time granted by this Tribunal, the respondents have no authority to pass any further order and after the period extended vide order dated 7.5.2004. It is on these basis the applicant has stated that the charge-sheet may be quashed. As already stated above, this challenge is not open to the applicant in view of the subsequent order passed by the Hon'ble High Court in the writ petition, whereby the Hon'ble High Court has given direction to the disciplinary authority to take action on the basis the inquiry report submitted by the inquiry officer. Thus, according to us, the present OA has become infructuous inasmuch as no relief can be granted to the applicant to quash the charge-sheet on the face of the order passed by the Hon'ble High Court, whereby direction has been given to the disciplinary authority to take action on the basis of the inquiry report. Granting relief to the applicant, as prayed for by him in this OA, will amount to defiance the order of the Hon'ble High Court.

6. Accordingly, the OA is bereft of merit and stands dismissed with no order as to costs.


(J.P. SHUKLA)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)