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CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

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**ORDERS OF THE BENCH**

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**26.05.2011**

OA No. 266/2008 with MA 74/2009

Mr. Nand Kishore, Counsel for applicant.

Mr. Anupam Agarwal, Counsel for respondents.

Heard. The OA is disposed of by a separate order.

*Anil Kumar*

(ANIL KUMAR)  
MEMBER (A)

*K.S. Rathore*

(Justice K.S. Rathore)  
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 26<sup>th</sup> day of May, 2011

**Original Application No.266/2008**

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)**  
**HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Babu Lal Dholpuria  
s/o Shri Parsa Ram Dholpuria,  
working as Law Assistant,  
D.R.M. Office,  
West Central Railway,  
Kota r/o 10/4, P.W.D. Colony,  
Vigyan Nagar, Kota.

.. Applicant

(By Advocate: Shri Nand Kishore)

Versus

1. Union of India through General Manager, West Central Railway, Jabalpur.
2. Divisional Railway Manager, West Central Railway, Kota.
3. Shri Ramavtar Sharma, Sr. Divisional Personnel Officer, West Central Railway, DRM Office, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORDER (ORAL)

The instant OA is preferred by the applicant challenging the memorandum of charges issued vide order dated 2.7.2008 (Ann.À/1) on the ground that the chargesheet is not required to be



issued as there are specific provisions in para (iv) of Annexure B regarding Loss/Misuse/Fraudulent use of passes and privilege ticket order in Railway Servant (Pass) Rules, 1986, which is reproduced below:-

"(iv) A fine of Rs. 10/- for Second Class and Rs. 25/- for First Class passes may be imposed on the Railway employees for not filling the date of commence of the journey on the passes- both privilege and duty granted to them. This amount has to be recovered from the employee by the ticket checking staff and the proper receipt issued. This fact may also be endorsed on the passes. Passes may also be returned within one month of the expiry of the pass or its utilization whichever is earlier. In regard to those cases where a fine has been imposed by the T.T.Es for non filling the date of commencement of journey on the passes, the following action may be taken:

- |                |  |
|----------------|--|
| (a) First case | Warning  |
| (b) Subsequent | To be dealt with in merits. This should be taken serious view and suitable deterrent action taken against the defaulting staff." |

2. After referring the aforesaid rules, the learned counsel appearing for the applicant submits that the above provisions of the Pass Rules, 986 have been made by exercising the powers conferred by the proviso to Article 309 of the Constitution and, as such, they are having statutory in nature and as such the railway authorities are bound to follow the same in its letter and spirit and as per this specific provision only warning is required to be issued to the applicant.

3. Further challenged on the ground that the applicant is working as Law Assistant in DRM Office, Kota and the DRM Office has reverted the applicant and the reversion order has been



challenged by the applicant. The applicant has also filed OA No.14/08 against the transfer order and vide order dated 16.1.2008 the transfer was stayed and the applicant was permitted to join on the aforesaid post and this order was made operative till disposal of representation of the applicant.

4. Further, the applicant has filed OA No.83/08 against the proposed reversion and the Tribunal vide its order dated 15<sup>th</sup> August, 2008 dismissed the OA and also rejected the interim relief granted on 18.3.2008.

5. Now by way of this OA, the applicant challenged the memorandum of charges on the ground that the chargesheet has been issued without jurisdiction and against the provisions of Railway Servants (Disciplinary and Appeal) Rules and also on the ground that the charges framed are on the face value false and only on this count the same deserves to be dismissed.

6. The applicant placed reliance on the order passed by this Tribunal in the case of Narayan Kumar Srivastava vs. UOI, OA No.285/2009 dated 18<sup>th</sup> April, 2011. In the aforesaid OA the controversy was that the chargesheet was issued by the Sr. Divisional Railway Manager and as per Railway Servants (Discipline and Appeal) Rules, 1968, he is not competent to issue the charge sheet.

7. Having considered the ratio decided by the Tribunal in the case of Narayan Kumar Srivastava and applying the same to the present case, as the applicant has challenged the chargesheet on the ground that the charges framed by the respondents is contrary



to the factual aspects which cannot be made applicable against the applicant. The learned counsel for the respondents submits that the present controversy is not covered by the judgment of this Tribunal relied upon by the applicant as the applicant is working on ad-hoc basis on the post of Law Assistant and reversion of the applicant has been upheld by this Tribunal vide its order dated 1st August, 2008 and so far as charges are concerned, the applicant can raise all short of objections before the disciplinary authority and the Tribunal cannot examine the correctness of the charges framed by the disciplinary authority. We are in agreement with the submissions made on behalf of the respondents and are of the view that the grounds taken by the applicant in this OA can be raised before the disciplinary authority, such as maintainability of the charges on factual as well on legal aspects. The applicant has not been able to make out any case that the chargesheet issued to the applicant requires any interference by this Tribunal as no iota of evident is produced that the chargesheet is illegal.

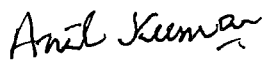
8. Further, with regard to the competence of authority as the applicant was working on ad-hoc basis and reverted back to his original post, thus the ratio decided by this Tribunal in the case of Narayan Kumar Srivastava (*supra*) is not applicable to the present case.

9. As discussed hereinabove, the applicant is at liberty to raise all short of objections/grounds raised in the present OA before the disciplinary authority and no interference is required by this Tribunal.



10. Consequently, the OA being bereft of merit is dismissed with no order as to costs.

11. In view of the order passed in the OA, no order is required to be passed in MA No.74/2009, which is accordingly disposed of.



(ANIL KUMAR)  
Admv. Member



(JUSTICE K.S.RATHORE)  
Judl. Member

R/