

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

ORDERS OF THE TRIBUNAL

24.03.2009

OA No. 381/2008

Mr. C.B. Sharma, Counsel for applicant.
Mr. Anupam Agarwal, Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 24th day of March, 2009

ORIGINAL APPLICATION NO. 381/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Kishan Lal Meena son of Shri Kanhaiya Lal Meena aged about 42 years, resident o 1533-C, Railway Colony No. 1, Frazer Road, Ajmer and presently working as Head Clerk (Mechanical Branch), Office of Divisional Railway Manager, North Western Railway, Ajmer Division, Ajmer.

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through General Manager, North Western Zone, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Ajmer Division, Ajmer.
3. The Senior Divisional Mechanical Engineer, North Western Railway, Ajmer Division, Ajmer.

.....RESPONDENTS

(By Advocate : Mr. Anupam Agarwal)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- (i) That the respondents may be directed to continue the applicant to hold the post of Head Clerk by quashing letter dated 11.09.2008 (Annexure A/1) with all consequential benefits.
- (ii) That the respondents be further directed not to act upon on the basis of conviction till the disposal of appeal pending before the competent Criminal Court at Ajmer.
- (iii) Any other order/direction or relief may be granted in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case.
- (iv) That the costs of this application may be awarded."



2. Briefly stated, facts of the case are that respondent no. 3 served a show cause notice dated 17.05.2004 (Annexure A/4) under Rule 14 (i) of Railway Servants (Discipline & Appeal) Rules, 1968 on the ground that appropriate authority came to the tentative conclusion to impose penalty of dismissal/removal from service of the applicant on conviction by the Trial Court. The applicant submitted his representation dated 31.05.2004 followed by another representation dated 12.07.2004. Vide order dated 26.8.2004 (Annexure A/7), respondent no. 3 kept the matter pending till the decision in Criminal appeal, which the applicant has filed against ^{his} ~~the~~ conviction by the Trial Court.

3. The grievance of the applicant in this case is that respondent no. 3 has again issued a show cause notice dated 11.09.2008 (Annexure A/1) in continuation of his earlier show cause notice dated 17.05.2004 (Annexure A/4) i.e. after a lapse of about four years.

4. When the matter was listed on 23.09.2008, this Tribunal taking notice of this fact restrained the respondents to proceed further in the matter pursuant to impugned order dated 11.09.2008 (Annexure A/1).

5. The respondents have filed reply thereby justifying their action on the ground that pendency of the criminal appeal is no ground for the respondents to pass appropriate order keeping in view of the gravity of the offence committed by the applicant.

6. The applicant has filed rejoinder thereby reiterating the stand taken by him in the OA. Today, the learned counsel for the applicant has shown to us a certified copy of the judgement rendered by the Special Judge for SC & ST, Ajmer in Criminal Appeal No. 202/2008 (87/2004) dated 13.02.2009 whereby the appeal of the applicant has been accepted and the judgement of the Trial Court dated 08.04.2004 whereby the applicant was held guilty under Section 145 of Railway Act and Section 332 of IPC. *has been set aside*

7. In view of this subsequent development, we are of the view that the basis for proceeding further ^{by} ~~for~~ issuing show cause notice dated 17.05.2004 and 11.09.2008 does not survive. Accordingly, impugned

order dated 11.09.2008 (Annexure A/1) and order dated ¹⁷⁻⁰⁵⁻²⁰⁰⁹ ~~08-04-2004~~
(Annexure A/1) shall stand quashed and set aside. The applicant is directed to make available copy of judgement of the Appellate Court available to the respondents.

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


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ