

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 18th day of April, 2011

ORIGINAL APPLICATION NO. 258/2009
With
MISC. APPLICATIONS NO. 256/2009 & 56/2010

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Narayan Kumar Srivastava son of Late Shri Bhairo Prasad Srivastava aged about 48 years, working as Chief Law Assistant (Engg.), Kota, West Central Railway, Kota. Resident of C/o House of the Ramakant Gupta, Rubber Factory Road, Bhimganj Mandi, Kota (Rajasthan).

.....Applicant

(By Advocate: Mr. Nand Kishore)

VERSUS

1. Union of India through General Manager, West Central Railway, Jabalpur (M.P.).
2. Shri Rajesh Kumar Mishra, Sr. Divisional Engineer (Coordination), West Central Railway, Kota.
3. Shri J.R. Kothari, Senior Inquiry Officer, Vigilance Cell, General Manager Office, West Central Railway, Jabalpur (M.P.).

.....Respondents

(By Advocates:Mr. R.G. Gupta)

ORDER (ORAL)

The short controversy involved in this OA is that the applicant was working as Chief Law Assistant under the Divisional Railway Manager, Kota. In Railway Board, the administrative control was under the jurisdiction of Additional General Manager, West Central Railway, Jabalpur as far as day to day work is concerned. The applicant was working under the functional control of Sr. Divisional Engineer (Coordination), West Central Railway, Kota. The applicant submitted that the Railway Board had issued the direction vide letter dated 12.05.1993 which clarifies that SDGM will be the cadre controlling



authority for all Gazetted Officer and the Group 'C' staff of the Legal Cell including those working in Personnel Department or Commercial or any other Department. Therefore, according to the applicant, the competent authority, who is competent to issue the charge sheet to the legal Department, was only the SDGM and not any other person. To this effect, learned counsel for the applicant has drawn our attention to Scheduled I of the Railway Servants (Discipline & Appeal) Rules, 1968. As per the said Scheduled, the competent authority for the purpose of compulsory retirement/ removal/ dismissal from service shall be the appointing authority or an authority of equivalent rank or any higher authority. It is not disputed that as per Rules 1968 that charge sheet should be issued by the appropriate Disciplinary Authority prescribed in the Schedules. It is also essential that the charge sheet should be signed by the Disciplinary Authority and not by any lower authority on his behalf. As per the said Scheduled of the Rules, the provisions in Rule 8 have to be kept in view while ascertaining whether the charge sheet has been issued by the correct authority. In respect of non-gazetted delinquent staff, a major charge sheet can be issued by an authority who is competent to impose on that Railway Servant at least one of the major penalties. However, in respect of delinquent employee of gazetted rank, major penalty charge sheet also be issued by an authority who is competent to impose on that delinquent employee at least one of the minor penalties. It is further made clear vide Board's letter No. E(D&A)72RG6-13 dated 16.10.1973 and E(D&A)94RG6-69 dated 04.08.1997. It has also been made clear by the Railway Board vide letter dated 16.10.1973 in Para No. 3, which reads as under:-



"3. The matter has been carefully considered by the Board and in consultation with their Legal Advisor, it is clarified that a Railway servant essentially belongs to only one Department even though, in the course of the performance of his day to day duties, he may violate certain rules/regulations administered by some other Department. The Assistant Station Master and the Station Master belong to the Operating Department even though they may have to perform the duties pertaining to the Commercial Department also from time to time. The Disciplinary authorities, in their cases, would thus belong only to the operating Department and none else. If any other practice is being followed that is irregular and should be stopped forthwith. Disciplinary action should be initiated and finalized by the authorities under whose administrative control the delinquent employee may be working as any other procedure would not be in keeping with the instruction referred to in Para I above (For General manager/Central Railway only: This disposes of his letter No. HFD/CoH/309/RII dated 24.02.1973 and 30.08.1973.)."

2. Thus admittedly, the charge sheet was issued by Sr. Divisional Railway Manager and as per the Railway Servants (Discipline & Appeal) Rules, 1968, he is not the competent authority to issue the charge sheet. Consequently, the charge sheet issued by him is contrary to the provision of Rules and deserved to be quashed and set aside. Accordingly, the Memorandum of Article of charge sheet dated 10.11.2008 (Annexure A/1) is hereby quashed and set aside with liberty reserved to the respondents to issue fresh charge sheet to the applicant by the competent authority, as laid down under the Railway Servants (Discipline and Appeal) Rules, 1968.

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

4. In view of the order passed in the OA, no order is required to be passed in MAs nos. 256/2009 for change of Inquiry Officer appointed



by the Disciplinary Authority and 56/2009 for deciding whether Sr. Divisional Engineer (Coordination) is a Disciplinary authority in the case of the applicant, which are accordingly disposed of.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

AHQ