

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 27th day of January, 2010

ORIGINAL APPLICATION NO. 21/2010

CORAM:

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

M.L. Meena son of Shri Kedar Prasad Meena aged about 47 years, resident no. Plot No. 1, Gopal Bad, Jagatpura, Jaipur. Presently posted as XEN/C/W/ under CAO (c), Jaipur.

.....APPLICANT

(By Advocate: Mr. S. Shrivastava)

VERSUS

1. Union of India through the Secretary Railway Board, Rail Bhawan, New Delhi.
2. General Manager, North Western Railway, H.Q. Office, In front of Railway Hospital, Hasanpura Road, Jaipur.
3. Member Engineering, Railway Board, Rail Bhawan, New Delhi.

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

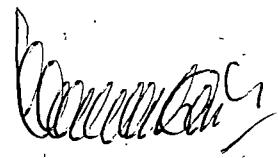
The applicant has filed this OA thereby challenging challenging the charge sheet dated 02.06.2006 (Annexure A/1) and the impugned order of penalty dated 28.10.2009 (Annexure A/2) whereby the Disciplinary Authority has awarded the penalty to the applicant. As can be seen from Para No. 3 of this order, this order is appealable and appeal lies to the President in terms of Rule 18 read with Rule 20 & 21 of the Railway Servants (Discipline & Appeal) Rules, 1968. Admittedly, the applicant has not filed any appeal against the aforesaid order passed by the Disciplinary Authority. Thus in terms of the law laid down by the Apex Court in the case of **S.S. Rathore vs. State of M.P.,** AIR 1990 SC 10, exhaustion of remedy available under the disciplinary rules is the condition precedent to maintain claim under

the Administrative Tribunal's Act, 1985. As such the present OA being premature cannot be entertained at this stage. Accordingly, the applicant is directed to file appeal before the Appellate Authority expeditiously and in case such an appeal is filed by the applicant within a period of two weeks from today, the Appellate Authority shall consider the desirability of condoning the delay in filing the appeal as the applicant was pursuing the remedy before this Tribunal. It is expected that the appeal filed by the applicant shall be disposed of by the Appellate Authority expeditiously and in terms of law laid down by the Apex Court in the case of S.S. Rathore (Supra) whereby the Apex Court has observed that authority to whom the power is vested to dispose of the appeal and revision under the statutory rules must dispose of such matter expeditiously as far as possible. It was further observed that ordinarily three to six months should be the period to dispose of the matter.

2. With these observations, the OA is disposed of at admission stage. Needless to add that it will be permissible for the applicant to file substantive OA after exhaustion of statutory remedy as available under the statutory rules.



(B.L. KHATRI)
MEMBER (A)



(M.L. CHAUHAN)
MEMBER (J)

AHQ