

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

NOTES OF THE REGISTRY

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27.10.2010

OA No. 417/2010

Mr. Rajiv Bandhu, Counsel for applicant.

Heard learned counsel for the applicant. When the matter was listed on 17.09.2010, none was present on behalf of the applicant and this Tribunal had passed the following order:-

"It is a DB matter.

The present OA has been filed by the applicant against the memo dated 4.5.2010 (Annexure A/1) whereby fresh charge sheet has been issued to the applicant. It may be stated that the said fresh charge sheet has been issued pursuant to setting aside the punishment order by this Tribunal vide order dated 29.01.2010 in OA No. 256/2006 whereby this Tribunal has held that charge sheet and penalty order has not been issued by the appointing authority and the OA was allowed to the extent that charge sheet and penalty orders were set-aside. Further, opportunity was given to the respondents to initiate fresh proceedings by the competent authority. Thus in view of this specific finding given by this Tribunal vide order dated 29.01.2010, it is not permissible for the applicant to challenge fresh charge sheet issued by the respondents on the same ground.

That apart, the Apex Court in the case of Board of Management of S.V.T. Educational Institution and Another vs. A. Raghupathy Bhat and Others, 1997 SCC (L&S) 1277 has held that enquiry can be conducted from the stage from which proceedings were vitiated relying upon the decision of the Constitution Bench in the case of Managing Director, ECIL vs. B. Karunakaran, (1993) SCC (L&S) 1184. Thus, in view of the law laid down by the Apex Court, the applicant

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is not entitled to any relief. It may further be observed here that provisions of Rule 8 of the Railway Servants (Disciplinary and Appeal) Rules, 1968 was not brought to the notice of the Hon'ble Bench, which stipulate that disciplinary proceedings can be initiated against a railway servant by the disciplinary authority and it is not necessary that enquiry proceedings should be initiated by the appointing authority.

Be that as it may, since in the instant case charge sheet has been issued to the applicant pursuant to the order passed by this Tribunal in the earlier OA, as such, the present OA is not maintainable.

....."

Today, learned counsel for the applicant is present. We have heard the learned counsel for the applicant. In view of the reasons, as reproduced above, we are of the view that the present OA is not maintainable. Accordingly, the same is dismissed.

Anil Kumar

(ANIL KUMAR)
MEMBER (A)

AHQ

M.L. Chauhan

(M.L. CHAUHAN)
MEMBER (J)

copy given vide
no. 1026
28/10/10
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