

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.200/2018.

Date of Decision: 08.03.2018.

CORAM: HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)
HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)

Surendranath K. Nair
Assistant Commercial Manager (Retd.)
Divisional Railway Manager's Office,
Central Railway, Mumbai CSMT.
R/at 504/5, Rishabh Heights CHS,
Garibachawda, M. Phule Road,
Dombivli (W) – 421 202. ... *Applicant*
(By Advocate Shri B.K. Rajan)
Versus

1. Union of India,
Through the Secretary,
Ministry of Railways,
Railway Board, Rail Bhavan,
New Delhi 110 001.
2. The General Manager,
Central Railway, Head Quarters
Office, CSMT – 400 001.
3. The Chief Personal Officer (C),
Head Quarters Office,
Central Railway,
CSMT – 400 001.
4. The Divisional Railway Manager (C),
Central Railway, Mumbai
CSMT – 400 001.
5. The Chief Commercial Manager,
Head Quarter's Office, New
Annexe Bldg., Central Railway,
CSMT – 400 001. ... *Respondents*

ORDER (Oral)
Per : Shri A.J. Rohee, Member (J)

Today when the matter is called out for admission, Applicant appeared with Shri B.K. Rajan, learned Advocate for him. Heard the learned Advocate. We have carefully perused the case record.

2. In this OA, the applicant who retired as Assistant Commercial Manager while working under Divisional Railway Manager, Central Railway, Mumbai has grievance regarding the impugned Memorandum/Charge-sheet dated 29.12.2016 issued by Respondent No.1. Hence present OA under Section 19 of the Administrative Tribunals Act, 1985 is filed for seeking the following reliefs;

“8.a This Hon'ble Tribunal may graciously be pleased to hold and declare that the Charge Memorandum Annexure A-1 dated 29.12.2016 issued on 06.01.2017 and the Enquiry Officer letter Annexure A-2 dated 28.02.2018 are ultra vires Railway Services (Pension) Rules 1993.

8.b) This Hon'ble Tribunal be pleased to quash and set aside the Charge Memorandum Annexure A-1 being No.E(O)1-2016/PU-2/CR/86 dated 29.12.2016.

8.c) This Hon'ble Tribunal be pleased to quash and set aside the order Annexure A-2 being No.NB/DAR/MY/Inquiry/CSTM dated 28.02.2018.

8.d) This Hon'ble Tribunal may be further pleased to order the costs of this Original Application in favour of the applicant.

8.e) Any other order, be passed as deemed fit and proper under the given facts and circumstances of the case."

3. The following interim relief is also sought:-

"9.a) Pending hearing and final disposal of the Original Application this Hon'ble Tribunal be pleased to pass an interim order restraining the respondents from proceeding with impugned order Annexure A-1 & A-2.

9.b) Ad-interim orders in terms of prayer clause (a) above may be granted."

4. On perusal of title of the OA, it is transpired that Respondent Nos.3, 4 & 5 are not necessary parties. Hence their names stand deleted from the array of parties. The Respondent Nos.1 & 2 only are the necessary parties.

5. During the course of arguments, it was revealed that the applicant has submitted a reply to Memorandum dated 29.12.2016 raising preliminary objection, since according to him the three charges levelled against him pertain to a period of more than four years prior to his retirement and hence inquiry is vitiated which cannot proceed further. It is also obvious from record that after considering the preliminary objection, the Disciplinary Authority - Respondent No.1

appointed the Inquiry Officer to proceed with the inquiry. However, the applicant has not filed a detailed reply to the charge-sheet denying each article of charge and disclosing his specific defence and only preliminary objection regarding maintainability of the disciplinary proceeding is raised. As stated earlier, since the Disciplinary Authority has considered the preliminary objection raised by the applicant and appointed the Inquiry Officer to proceed with the matter, we are of the considered view that the applicant has still a legitimate right to file a detailed reply to the charge-sheet in continuation of his preliminary objections already raised and the Inquiry Officer can proceed with the charge-sheet in accordance with rules.

6. The Applicant retired long back on 31.01.2013 and Memorandum has been issued within four years from the date of his retirement. In view of above, the **OA stands disposed of** with a direction to the Inquiry Officer to permit the applicant to file a detailed reply to the Memorandum dated

29.12.2016 within a period of four weeks from today and then further steps shall be taken by the Inquiry Officer to proceed with the inquiry as per rules.

7. The Applicant is also directed to ensure that he renders full co-operation to the Inquiry Officer to proceed with the inquiry and shall avoid taking unnecessary adjournments so that it can be expeditiously concluded.

8. The OA stands disposed of with the aforesaid directions at the admission stage, without issuing notice to the respondents or without making any comments on merits of the claim.

9. The Applicant shall apprise the Inquiry Officer about this order, who shall take appropriate steps in the matter.

10. Registry is directed to forward certified copy of this order to the Applicant and Respondent Nos.1 & 2 only for taking appropriate steps in the matter at the earliest.

(R. Vijaykumar)
Member (A)

(A.J. Rohee)
Member (J)