

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.583/2018

Date of Decision: 17th September, 2018

CORAM: HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)
HON'BLE SMT RAVINDER KAUR, MEMBER (J)

Ahmed Afroz
son of Kausar Nawab
Age about 43 years, Occupation: Service
Length of Service: about 25 years,
An Indian Inhabitant of Mumbai,
Presently working as Motorman in
Mumbai Division of Central Railway,
Residing at Flat No.19, Aasiana Tower,
I.C. Colony, Borivali (West),
Mumbai – 400 103

... ***Applicant***

(In person)

Versus

1. The Union of India,
Through : General Manager,
Headquarters Office,
Central Railway,
CST Mumbai – 400 001.
2. Ministry of Railways,
Rail Bhavan,
Rafi Marg,
New Delhi – 110 001.
3. Chief Operating Manager,
Central Railway,
Address: DRM's Building,
First Floor,
C.S.T. Mumbai – 400 001.
4. Additional Divisional
Railway Manager (O)
Mumbai Division, Central Railway,
Address : DRM's Building

5. Senior Divisional Electrical
Engineer (TRS.O.)
Mumbai Division, Central Railway,
Address : DRM's Building,
2nd Floor, C.S.T. Mumbai,
- 400 001.

... **Respondents**

ORDER (ORAL)

Per : Shri R. Vijaykumar, Member (A)

Heard the applicant who appeared in person. He has alleged that two charge sheets were issued to him for the same offences and that separate orders were passed and later on, in order dated 08.08.2018, it has been recorded that enquiry report dated 07.06.2018 was communicated to him but it had been returned by the postal department as 'unclaimed'. The applicant admits received the final orders but denies the assertion of respondents as contained in their orders dated 08.08.2018, that the enquiry report was communicated to him as stated therein.

2. On the first issue of the offences in two charge sheets dated 18.06.2009 and 21.07.2009 being identical, there is apparent difference in their contents and applicant cannot escape being punished for repetitive offences that had occurred on different dates. In any case, the matter needs to be argued by him before the Appellate Authority with adequate grounds and we do not wish to comment on merits at this stage. Further, if the applicant has any grievances

regarding non receipt of the enquiry report without which he was unable to make an adequate defence, it would be appropriate to him to approach the Appellate Authority and seek remedy by way of issue of duplicate copy of the enquiry report and avail the opportunity of proper consideration.

3. At this stage, the applicant states that against previous orders of the respondents dated 06.09.2012 (Annexure A-5), he had filed an OA No.756/2014 and that he had exhausted the appeal opportunity provided by virtue of those orders. He also states that the OA is awaiting disposal by this Tribunal.

4. It is apparent that prior to adjudication by this Tribunal, applicant will have to avail the opportunity of appeal. Therefore, the applicant is at liberty to take appropriate steps, subject to limitation as applicable, against the orders of the Disciplinary Authority by approaching the Appellate Authority and if his grievance still persists, seek appropriate legal remedies.

5. The Original Application is accordingly disposed of with the above directions with no orders on merits or on the issue of limitation. No costs.

(Smt Ravinder Kaur)
Member (J)
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(R.Vijaykumar)
Member(A)