

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2434/2019
O.A. No.2435/2019
O.A. No.2436/2019
O.A. No.2437/2019
O.A. No.2439/2019
O.A. No.2441/2019
O.A. No.2442/2019

Wednesday, this the 21st day of August 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

O.A. No.2434/2019

Khurshid Alam, s/o late Md. Shafique Mansoor
Aged 34 years
A/60, 2nd floor,
Anand Vihar, Uttam Nagar West
New Delhi – 110 059
Group B
Sr. Station Controller

..Applicant

(Mr. Anurag Ojha, Advocate)

Versus

Managing Director
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi

..Respondent

(Mr. Amit Singhla, Senior Advocate and Mr. V S R Krishna,
Advocate with him)

O.A. No.2435/2019

Gordhan Choudhary
s/o Chuna Ram Choudhary
Sr. Station Controller Operator
B-1013, Gali No.13
Sadh Nagar, Palam
New Delhi – 110 045
Group B, Age 32

..Applicant

(Mr. Anurag Ojha, Advocate)

Versus

Managing Director
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi

..Respondent

(Mr. Amit Singhla, Senior Advocate and Mr. V S R Krishna,
Advocate with him)

O.A. No.2436/2019

Arvind Kumar Rai s/o Deepnarain Rai
Aged 47 years
Plot No.709, Flat No.101 (GF)
Swarna Jayanti RWA, Niti Khand 1
Indirapuram, Ghaziabad, PIN 201014
Uttar Pradesh
Group B
Sr. Station Controller

..Applicant

(Mr. Anurag Ojha, Advocate)

Versus

Managing Director
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi

..Respondent

(Mr. Amit Singhla, Senior Advocate and Mr. V S R Krishna,
Advocate with him)

O.A. No.2437/2019

Ravi Bhardvaz s/o Umakant Mishra
Employee No.13511
Sr. Station Controller
Flat No.GF-2, Plot No.393
Sector 4, Vaishali, Ghaziabad
Uttar Pradesh – 201012
Group B, age 30 years

..Applicant

(Mr. Anurag Ojha, Advocate)

Versus

1. Managing Director
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi
2. Director (Operation)
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi

3. Shri Rahul Jha (Inquiring Authority)
Through Director (Operation)
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi
4. Shri Sanjay Kubba (Disciplinary Authority)
General Manager/Rolling Stock
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi
5. Shri Vikas Kumar (Executive Director/Operations)
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi
6. Shri Rajib Dhar Choudhary (Chief General Manager)
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi

..Respondent

(Mr. Amit Singhla, Senior Advocate and Mr. V S R Krishna,
Advocate with him)

O.A. No.2439/2019

Praveen Ranjan
s/o Bipin Bihari Sinha
Aged 49 years
Flat No.B/601, Plot No.10
NTPC CGHS, Sector 19 B, Dwarka
Sr. Station Controller
New Delhi – 110 045
Group B

..Applicant

(Mr. Anurag Ojha, Advocate)

Versus

Managing Director
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi

..Respondent

(Mr. Amit Singhla, Senior Advocate and Mr. V S R Krishna,
Advocate with him)

O.A. No.2441/2019

Ram Kumar Dhiman
s/o Shri Lakhmi Chand
Sr. Station Controller
Aged 53 years
B-103, Metro Vihar
DMRC Staff Quarters

Najafgarh, New Delhi – 110 043
Group B

..Applicant

(Mr. Anurag Ojha, Advocate)

Versus

Managing Director
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi

..Respondent

(Mr. Amit Singhla, Senior Advocate and Mr. V S R Krishna,
Advocate with him)

O.A. No.2442/2019

Ramesh Singh s/o Yamuna Prasad Singh
Sr. Station Controller
House No.55 (2nd floor)
Bajrang Enclave, Najafgarh
New Delhi – 110 043
Group B
Age 48 years

..Applicant

(Mr. Anurag Ojha, Advocate)

Versus

Managing Director
Delhi Metro Rail Corporation
Metro Bhawan, New Delhi

..Respondent

(Mr. Amit Singhla, Senior Advocate and Mr. V S R Krishna,
Advocate with him)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

In this batch of O.As., the applicants, who are the employees of Delhi Metro Rail Corporation (DMRC) Limited, challenge the charge memos dated 23.08.2018 issued to them, and proceedings, that ensued thereafter, namely, order dated 01.04.2019, daily order sheet dated 28.05.2019 and communication dated 21.06.2019.

2. It is stated that an unfortunate incident has taken place at Dwarka Metro Station on 31.05.2018, where the CISF personnel, who were guarding the Metro Station, have beaten up the Station Manager. It is stated that an FIR was registered in this behalf and though everything ended peacefully, the charge memos were issued on the strength of direction issued by the Hon'ble High Court of Delhi in a writ petition filed before it by an ex-employee of CISF.

3. The applicants contend that the very initiation of disciplinary proceedings against them was un-called for, since what is alleged against them is only the participation in a peaceful demonstration within the limits of Dwarka Metro Station and that, at a subsequent stage, various objections raised by them were not considered. It is also stated that under the DMRC Discipline & Appeal Rules, the proceedings are to be concluded within four months and despite that, hardly there is any progress in the matter.

4. The applicants state that a detailed representation was made to the respondents with a request to furnish certain documents and material that has a bearing upon the incident, but the same was not considered by the respondents.

5. We heard Mr. Anurag Ojha, learned counsel for applicants and Mr. Amit Singhla, learned senior counsel

assisted by Mr. V S R Krishna, learned counsel for respondents, at the stage of admission, in detail.

6. The applicants herein were issued charge memos dated 23.08.2018. They are in relation to an incident, which is stated to have taken place on 31.05.2018 at Dwarka Metro Station. The allegation contained in the charge memo (O.A. No.2434/2019) reads as under:-

“Article -1

That the said Shri Khurshid Alam while working as Sr. TO, participated, addressed and led the unlawful assembly of employees at Dwarka Sector 21 and Dwarka Metro Station unauthorisedly on platform and concourse and incited them for the common objective of disturbing and obstructing revenue train services. Shri Khurshid Alam went to the track in a group and disrupted the train services on dated: 31.05.2018 at around 21.00 hrs at Dwarka Metro Station. Hence, Shri Khurshid Alam is responsible for stopping the revenue train services and causing detention and delay to revenue trains movement, which created a lot of inconvenience to metro commuters. To conceal the identity while stopping the train, the Headlight of the Train was also switched off, by the group. Further, stopping of trains also Revenue loss to DMRC and invited public complaints. Thus Shri Khurshid Alam is responsible for tarnishing the image of DMRC. He, thus violated the following Rules and Act under the sections as indicated below:-

- (i) MRGR Rules – 8 (2)a, 12 (b), 12 (d) and 13 (1) (c)
- (ii) Delhi Metro Railway (Operation and Maintenance) Act 2002, section 64, 67, 68 and 69.

This conduct of Shri Khurshid Alam tantamounts to an act of gross misconduct on his part. By his above acts of omission and commissions, Shri Khurshid Alam while working as Sr. TO thus, violated the following Rules 4.1 (i, ii and iii), 5.1, 5.5, 5.6, 5.9, 5.17, 5.20, 5.21, 7.1, 25, 26, 31, 36 and 40.2 (vi) of the DMRC Conduct, Discipline and Appeal Rules.”

The charge against the applicants in the O.As. is said to be similar.

7. The sequence of events discloses that the charge memos were issued about three months after the alleged incident. Even from the O.As., it becomes clear that the respondents did not feel the necessity to initiate disciplinary proceedings immediately, but the same was prompted on account of a writ petition filed by an ex-employee of CISF. Whatever may have been the circumstances under which the proceedings were initiated, we do not find any illegality in the process.

8. The only charge against the applicants in the charge memos is that they have participated in a demonstration at Dwarka Metro Station, which resulted in halting of Trains. The truth or otherwise of the matter needs to be examined in the on-going inquiry. Though the Rules mandate that the proceedings must be concluded within a period of four months, if one takes into account the number of persons involved and the volume of evidences, it is just impossible for the matter of this nature to be concluded within that period. Further, the provision is in directory and not mandatory in nature.

9. It is fairly well settled that the occasion for this Tribunal to interfere with the charge memo would arise, if only it was issued by an authority not vested with the power or the charges

so leveled do not constitute misconduct, even if the allegations are taken as true. No such grounds are raised in these O.As.

10. The disciplinary proceedings and other steps in connection with an incident, that took place on 31.05.2018, are being monitored by the Hon'ble High Court in W.P. (C) No.6550/2018. Through an order dated 04.04.2019, it was directed that the disciplinary proceedings must be concluded at the earliest.

11. In the circumstances, we do not find it appropriate to interfere with the charge memos and other related proceedings. The O.As. are accordingly dismissed. It is needless to mention that it shall be open for the applicants to put forward their contentions before the inquiry officer or the disciplinary authority, as the case may be, at the relevant stages.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

August 21, 2019
/sunil/