

(2021) 02 RAJ CK 0069

In the Rajasthan High Court

Case No : Civil Writ Petition No. 11524 Of 2011

Union Of India And Ors

APPELLANT

Vs

Narayan Kumar Srivastava And Ors

RESPONDENT

Date of Decision : 16-02-2021

Acts Referred:

Citation : (2021) 02 RAJ CK 0069

Hon'ble Judges : Sabina, J;Manoj Kumar Vyas, J

Bench : Division Bench

Advocate : P.C. Sharma , Mukesh Agarwal

Final Decision : Disposed Of

Judgement

Petitioners have filed the petition challenging the order dated 18.04.2011 passed by the Central Administrative Tribunal, Jaipur Bench Jaipur

(hereinafter referred to as 'the Tribunal'), whereby, original application filed by respondent No.1 was allowed.

Learned counsel for the petitioners has submitted that the Tribunal has erred in considering that the charge-sheet was issued by Senior Divisional

Railway Manager, whereas, it had been issued by Senior Divisional Engineer (Coordination). Learned counsel has submitted that the Tribunal has

further erred in holding that only Senior Deputy General Manager was competent to issue the charge-sheet. Learned counsel has submitted that

Senior Divisional Engineer (Coordination) was competent to issue the charge-sheet as the respondent No.1 was working under the said officer.

Learned counsel for the respondent No.1 has opposed the petition and has submitted that admittedly charge-sheet had been issued by Senior

Divisional Engineer (Coordination). As per Annexure-A/3 attached with the

original application, the legal organisation should be under Additional Divisional Railway Manager through Senior Divisional Personnel Officer in all divisions. Respondent No.1 was working at divisional level, hence, the charge-sheet could have been issued to him either by Additional Divisional Railway Manager or Senior Divisional Personnel Officer. In this regard, learned counsel has placed reliance on Railway Board letter dated 16.10.1973.

Respondent No.1 was working as Chief Law Assistant with the Railways at Kota. Admittedly, charge-sheet has been issued against the respondent No.1 by Senior Divisional Engineer (Coordination), Kota Division vis-à-vis major penalty. Annexure-A/3 attached with the original application is a letter by Director, Establishment (Gaz. Cadre) Railway Board dated 09.03.2006. As per Annexure-III to the said letter, the legal organization should be under Additional Divisional Railway Manager through Senior Divisional Personnel Officer in all divisions.

Learned Tribunal has based reliance on para-3 of Railway Board Letter dated 16.10.1973 and the same as reproduced in the order by the Tribunal reads as under:-

The matter has been carefully considered by the Board and in consultation with their legal adviser, it is clarified that a Railway servant essentially belongs to only one Department even though, in the course of the performance of his day-to-day duties, he may violate certain rules/regulations administered by some other Department. The Assistant Station Master and the Station Master belong to the Operating Department even though they may have to perform the duties pertaining to the Commercial Department also from time to time. The Disciplinary Authorities, in their cases, would thus belong only to the Operating Department and none else. If any other practice is being followed that is irregular and should be stopped forthwith.

Disciplinary action should be initiated and finalized by the authorities under whose administrative control the delinquent employee may be working as any other procedure would not be in keeping with the instructions referred to in Para I above (For General manager/Central Railway only: This disposes of his letter No.HFC/CoH/309/RII dated 24.02.1973 and 30.08.1973.)

Thus, as per the above letter, disciplinary action should be initiated and finalized by the authorities under whose administrative control the delinquent employee may be working. In the present case, respondent No.1 was working

under administrative control of Additional Divisional Railway Manager.

So far as the legal organization is concerned, as per Annexure-A/3, the same should be under Additional Divisional Railway Manager through Senior

Divisional Personnel Officer in all divisions.

In these circumstances, the charge-sheet could have been issued against the respondent No.1 by Additional Divisional Railway Manager or Senior

Divisional Personnel Officer. However, in the present case, the charge-sheet was issued by Senior Divisional Engineer (Coordination).

Thus, the learned Tribunal had rightly held that the charge- sheet had not been issued against the respondent No.1 by the competent authority and had

rightly quashed the same. However, it is clarified that the competent authority to issue the charge- sheet would be Additional Divisional Railway

Manager or Senior Divisional Personnel Officer and would not be Senior Deputy General Manager. Tribunal while quashing the charge-sheet issued

against respondent No.1 has given liberty to the petitioners to issue fresh charge-sheet by the competent authority as per rules.

Petition stands disposed of accordingly.