

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. E(D&A) 2006/RG6-45

New Delhi, 8 /2 /2007

The General Manager(P)
All Indian Railways and
Production Units etc.
(As per standard list).

Sub: Validity of the plea of discrimination where the cited decision was a wrong decision –observations of Hon'ble Court reg.

A case has been brought to the notice of this Ministry where an ex-employee had filed an application before CAT, Chandigarh Bench for review of his disciplinary case on the ground that he has been discriminated against since a lenient view was taken in respect of another similarly placed co-accused in the case.

2. The facts of the case are that two employees had been taken up on the charge that they had suppressed facts of their arrest and pending criminal proceedings against them in the attestation forms filled up by them at the time of appointment. Both of them were taken up under RS(D&A) Rules and in the penalty orders passed by the disciplinary authorities both were removed from service. In one of the cases the penalty of removal from service was reduced in appeal and further on revision. While in the other case the appeal and revision petition preferred by the ex-employee were rejected. The latter person filed Application (OA No. 428-PB-2001) before CAT, Chandigarh Bench alleging discrimination. The Application was rejected by the Hon'ble Tribunal vide their orders dated 20.1.2003 observing that a person cannot claim discrimination on the ground that the Department had committed a mistake in another case on facts and the points of law and it must be repeated in his case. The person concerned had thereafter filed CWP No. 6268-CAT of 2003 before High Court of Punjab and Haryana. The Hon'ble High Court also dismissed the Writ Petition vide their orders dated 17.5.2006. While passing orders in the Writ Petition, the Hon'ble High Court have upheld the stand of the Railway administration, which had also been endorsed by the Hon'ble CAT, Chandigarh that the lenient view taken in the case of another person was wholly unjustified and the same therefore, cannot be taken into consideration under the plea of discrimination, so as to allow the petitioner the benefit of a wrongful decision.

3. The above observations of the Hon'ble Court may please be brought to the notice of all concerned authorities on your Railway for their information and guidance. These may please be kept in view for dealing with similar cases.

4. Please acknowledge receipt.

Sd/-
(Harish Chander)
Dy, Director Estt. (D&A) III
Railway Board