

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

F. No. 1622
Dated: 20.7.99

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New Delhi this the 23rd day of July, 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman (J)
Hon'ble Mr. R.K. Ahooja, Member (A)

Shri C.M. Sharma,
S/o Shri A.R. Sharma,
Dy. Chief Engineer
Railway Electrification
Ambala Cantt.

...Applicant

(By Advocate Shri B.S. Mainee)

versus

Union of India, through

1. The Secretary
Railway Board
Ministry of Railways
Rail Bhawan
New Delhi.
2. The General Manager
Central Organisation for
Railway Electrification
Allahabad.

...Respondents

ORDER (Oral)

By Mr. R.K. Ahooja, Member (A)

We find that we have jurisdiction in this case.

Registry will allot an O.A. number accordingly.

2. The applicant while working as a Divisional Engineer was convicted by the Court of Special Judge for CBI cases at Vishakapatnam, on the basis of a FIR dated 20.4.95 under Sections 7 and 13 (1) (d) readwith 13 (2) of Prevention of Corruption Act, 1988 and sentenced to undergo rigorous imprisonment for a period of one year

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and to pay a fine of Rs.2,000/- or in default simple imprisonment for three months. On the basis of this conviction the Ministry of Railways vide impugned Memorandum dated 28.6.99 issued a show cause notice to him under Rule 14 (i) of Railway Servants (Discipline & Appeal) Rules, 1968, proposing to impose the penalty of removal from service. The applicant has now come before this Tribunal on the ground that he has filed an appeal before the High Court and the High Court has admitted the same and suspended the sentence under Section 398 of Cr. P.C. and also granted him bail. The applicant submits that this appeal is likely to come up for hearing shortly and, therefore, action taken by the respondents be stayed so that he is not dismissed from service.

3. We have heard Shri B.S. Maine, learned counsel for the applicant. We find that in terms of the law laid down by the Hon'ble Supreme Court in Union of India & Others v. Shri Ramesh Kumar, JT 1997 (7) SC 645, the suspension of execution of sentence by the High Court and granting of bail cannot be a ground for quashing the order of dismissal. Shri Maine submitted before us that the aforesaid judgement of the Hon'ble Supreme Court is not applicable in the present case, as the applicant is not seeking the quashing of an order of dismissal. Since no such orders have been passed, his plea is only that the show cause notice may be quashed and that the respondents should pend the disciplinary action till the disposal of the appeal by the High Court.

(2)

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4. We are not convinced by this argument. If the order of dismissal itself cannot be set aside in a situation where a conviction has taken place but an appeal is pending before the High Court, in our view, there would be even less reason for interdicting the order of disciplinary authority initiating the action for dismissal as per the Railway Servants (Discipline & Appeal) Rules, 1968. At this stage, the applicant has to file a reply to the show cause notice and it is then for the competent authority to decide as to what action to take on the basis of the explanation furnished by the applicant.

5. In view of this position, the relief sought for by the applicant cannot be considered. Learned counsel for applicant submits that applicant will furnish reply to the competent disciplinary authority who may be directed to consider it on merits. No such directions, in our view, are required since the disciplinary authority is bound to consider the reply furnished by the applicant in accordance with law.

6. The O.A. is accordingly dismissed, at the admission stage itself. No costs.

R.K. Ahuja
(R.K. Ahuja)
Member (A)

V.Rajagopala Reddy
(V.Rajagopala Reddy)
Vice-Chairman (J)

cc.