

15

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 470/1997

New Delhi this the 27th day of April, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Shri Bimal Kumar Jain
Head Booking Clerk,
Northern Railway,
Patodi Road, Bikaner Divn.

R/O C/O Sh. Rakesh Jain,
M/s Jainkhad Wale, P.O. Haily
Mandi-123504

.. Applicant

(By Advocate Sh. B.S. Mainee, learned
counsel through proxy counsel
Shri Madhok)

Versus

Union of India : Through

1. The General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager
Northern Railway, Bikaner
(Rajasthan)
3. The Sr. Divisional Commercial
Manager, Northern Railway,
Bikaner (Rajasthan)

.. Respondents

(By Advocate Sh. P.S. Mahendru)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant has impugned the order passed by the respondents dated 12.7.96 placing him under suspension in terms of the Railway Servants (Discipline and Appeal) Rules, 1968.

2. I have perused the pleadings and considered the submissions made by the learned counsel for the parties.

3. The main grievance of the applicant is that he has been placed under suspension and no charge sheet has been issued to him nor the respondents ^{have} revoked the suspension order with a view to enhance the subsistence allowance to 75% of the pay in accordance with the rules. He had accordingly made a number of representations for revocation of the suspension order as well as payment of the subsistence allowance which he has ^{was} stated ^{has} not even initially ~~been~~ paid to him. Shri Madhok,

16

learned proxy counsel for the applicant has stated that the respondents have not given any reply to the representations and hence this O.A.

4. One of the main reliefs in this OA is to quash the suspension order and direct the respondents to pay the pay and allowance as admissible to him in accordance with the rules.

5. The respondents in their reply have submitted that the applicant was placed under suspension as ^{proceedings} a major penalty was contemplated against him. They have also stated that now a charge sheet has been served upon him in the reply filed by them on 22.10.1997. Shri P.S. Mahendru, learned counsel has also submitted in the reply ^{that} after receipt of the representations of the applicant dated 10.12.96 and 20.12.96, the subsistence allowance of the applicant was arranged by supplementary bill dated 10.3.97. He has further submitted that these facts have not been denied by the applicant as no rejoinder has been filed by him.

6. Shri Madhok, learned proxy counsel has submitted that from the above facts it appears that the disciplinary case had been initiated against the applicant prior to 22.10.97, ^{and it is} probably still pending. However, he has not categorically stated whether this is a fact or not. He has, however, prayed that a direction may be given to the respondents to expedite the case, if the same is still pending. Shri Mahendru, learned counsel has correctly pointed out that ^{this cannot be done} on presumptions and assumptions and it was for the applicant to state whether a case was still pending or not. He has, therefore, submitted that no such direction as prayed for by the applicant can be granted on presumptions and assumptions.

7. Having considered the facts and submissions made by the learned counsel for the parties, I find that the main relief ~~so~~ prayed for by the applicant has since been granted by the respondents themselves by way of enhancement of the subsistence

17

allowance during the period of applicant's suspension. The claim for quashing the suspension order cannot be accepted as it is noted that ^amajor penalty charge sheet has also been issued to the applicant. In the facts and circumstances of the case as nothing further survives in the O.A., the same is disposed of as having become infructuous. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

sk