



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.1880/2020

Today this the 24thday of November, 2020

Through video conferencing

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

A.V. Mittal
S/o Late Shri A.K. Mittal
Dy. Chief Engineer (TO)
Northern Railway H.Q. Office
Baroda House, New Delhi-110001
R/o 303/3A, Railway Officers' Flats
Chelmsford Road
New Delhi-110055.Applicant

(Applicant in person)

Versus

Union of India (Ministry of Railways) through

1. Secretary, Railway Board
Ministry of Railways
Rail Bhawan
New Delhi-110001.
2. Deputy Secretary/E(O)I-CC
Railway Board
Ministry of Railways
Rail Bhawan
New Delhi-110001.
3. General Manager
Northern Railway
Baroda House
New Delhi-110001.

..Respondents

(By Advocates: Ms. Shreya for Shri Krishna Kant Sharma)

ORDER (ORAL)



Mr. Justice L. Narasimha Reddy:

The applicant was working as Deputy Chief Engineer (TO) in the Northern Railway Headquarters Office, Baroda House, New Delhi. The CBI instituted proceedings against him under Rule 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988 in RC No.BA1/2003/A0041. The concerned Criminal Court convicted the applicant, through judgment dated 28.12.2012 and sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs.75,000/- The applicant states that he filed an Appeal before the Hon'ble High Court feeling aggrieved by the judgment of the Trial Court.

2. The President, the appointing authority, issued a notice to the applicant in exercise of the power under Rule 14(i) of the Railway Servants (Discipline &Appeal) Rules, 1968, proposing to impose a penalty of dismissal from service in view of the conviction in the criminal case. The applicant, however, did not submit any representation. An order was passed on 03.01.2019 dismissing the applicant from service. This OA is filed challenging the order of dismissal.

3. The applicant, who filed the case in person, submits that the charge in the criminal case is very vague and there was absolutely no basis for the conviction. It is also pleaded that on



the same allegations, the departmental proceedings were initiated and punishment of different kind was also imposed and that the punishment under the impugned order amounts to double jeopardy.

4. Reliance is placed upon the judgment of the Hon'ble

Supreme Court in ***Shanker Dass vs. Union of India and Anr.*** AIR 1985 SC 772.

5. We heard the applicant, who argued the matter in person and Ms. Shreya for Shri Krishna Kant Sharma, learned counsel for the respondents, at length, through video conferencing.

6. It is not in dispute that the applicant was convicted in a criminal case for offences punishable under Rule 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988 in RC No.BA1/2003/A0041. Article 311(2)(b) of the Constitution provides for dismissal of a civil servant in the event of conviction in a criminal case. Correspondingly Rule 14(1) of Railway Service (Discipline &Appeal) Rules 1968 also provides for that. Once a civil servant is convicted by a court, for the offences of moral turpitude, the employer has no option but to dismiss the employee.



7. It is true that the respondents have initiated disciplinary proceedings against the applicant and that ended in imposition of penalty of lesser magnitude. The order passed in exercise of power under Article 311(2)(b) of the Constitution of India or the corresponding provision in the CCS (Conduct) Rules, 1964 cannot be treated as double jeopardy. Both are different aspects altogether, but arising out of same circumstances. Obviously for this reason, the courts insist that, wherever an employee is subjected to prosecution in a criminal case, disciplinary proceedings initiated on the same allegations must await the outcome of the criminal proceedings.

8. Though the applicant has strongly pleaded that the charges in the criminal case were vague, the Tribunal has no jurisdiction to deal with the same. It is for the Hon'ble High Court, where the Appeal is pending, to adjudicate upon the judgment of the Trial Court.

9. In **Shanker Dass** (supra), the employee therein was no doubt convicted by the Criminal Court but was released under the Probation of Offenders Act, 1958. With that, the impact of the conviction stands wiped away. Taking that aspect into account, the Hon'ble Supreme Court granted relief. In the instant case, since the applicant did not have such a benefit, he



as to await the outcome of the Appeal preferred by him before the Hon'ble High Court against the judgment of the Trial Court.

10. We do not find any merit in the OA. It is accordingly dismissed. It shall be open to the applicant to pursue the remedies, depending upon the outcome of the Appeal filed by him against the judgment of the Trial Court.

There shall be no order as to costs.

(A. K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/sunil/rk/vb/sd