

(19)
OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD.**

ALLAHABAD, THIS THE 27th DAY OF MARCH, 2006.

QUORUM : HON. MR. JUSTICE KHEM KARAN, V.C.

HON. MR. A.K. SINGH, A.M.

ORIGINAL APPLICATION NO. 889 OF 2005.

Manish Kumar, son of, Ram Jeet Ram, Tailor Semi Skilled under Central Manager Ordnance Parachute Factory, Kanpur, resident of, Village Pah Saiyadraja, Post Deoria, District Ghazipur.

ALONG WITH

ORIGINAL APPLICATION NO. 890 OF 2005.

Sanjay Kumar Gaur, son of, Sri Ramjag Gaur, (Tailor/Semi Skilled under Deputy General Manager, Ordnance Parachute Factor, Kanpur), resident of, Village Pah Saiyadraja, Post Deoria, District Ghazipur.

AND

ORIGINAL APPLICATION NO. 891 OF 2005.

Naveen Kumar, son of, Ram Jeet Ram ((Tailor/Semi Skilled under Deputy General Manager, Ordnance Parachute Factor, Kanpur), resident of, Village Pah Saiyadraja, Post Deoria, District Ghazipur.

..... Applicants.

Counsel for applicants : Shri Sajnu Ram.

Versus

1. Union of India through Director General, Manager, Ordnance Board, Khudi Ram Bose Road, Kolkata.
2. General Manager, Ordnance Parachute Factory, Kanpur.

..... Respondents.

Counsel for Respondents : Sri A. Mohiley.

O R D E R

HON. MR. JUSTICE KHEM KARAN, V.C.

Heard.

[Signature]

2. Shri Mohiley has stated that since these three claim petitions were directed against the termination dated 16.7.2005 and since during the pendency of these petitions, those termination orders have been quashed by the department, therefore, these petitions do not survive for decision on merits. Shri Mohiley has also stated that it is true that after the quashing of the removal order impugned in these petitions, the Disciplinary Authority concerned has initiated the formal disciplinary proceedings and during the pendency of these proceedings have also placed these three persons under suspension. According to him, initiation of disciplinary proceedings or suspension of these persons during the course thereof or in contemplation thereof are a separate matter and cannot be decided in these petitions, directed against the order of removal. He says that the petitioner has filed a miscellaneous application in these proceedings for staying the operation of the suspension order.

3. Shri Sajnu Ram, the learned counsel for the claimants has submitted that the order of removal was quashed purportedly in terms of or in compliance of interim order dated 9.8.2005 of this Tribunal, passed during the course of this Original Petition, so authority concerned could not have initiated fresh proceedings or could not have placed the claimants under suspension without express order or permission of this Court. He says that by doing this, the opposite parties have committed contempt of Court and so these three claimants have preferred a contempt petition for taking suitable action for disobeying the orders of the Tribunal. Shri Sajnu Ram has also stated that his application for staying the operation of the suspension order deserves to be considered in these petitions and the three petitioners should not be compelled to bring separate action against the

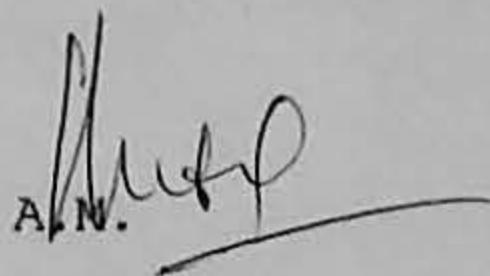
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suspension order or the disciplinary proceedings. Shri Sajnu Ram has also cited, H.L. Mehra Vs. Union of India and others reported in AIR 1974 SC 1281, so as to convince us that in cases where inspite of the pendency of an action in a Court or inspite of the continuation of certain interim order, the administrative authority passes such type of orders, the same can be examined in the action already pending before the Court.

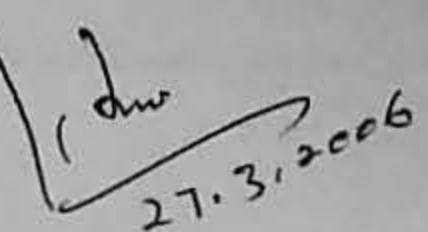
3. We have considered the respective submissions made by the learned counsels for parties and have also gone through the record before us. This much is not in doubt or debate that the termination order dated 9.8.2005, which forced the three claimants to knock the doors of the Tribunal, stands quashed or withdrawn though by an order of department and the same do not survive for examination by this Tribunal as to whether it was rightly passed or wrongly passed. The thrust of Shri Sajnu Ram is that no fresh disciplinary proceedings could have been or ought to have been initiated. His grievance is not against the order by which the termination order was withdrawn. The grievance is against the events following the withdrawal or quashing of that order. The facts of the case, cited by Shri Sajnu Ram, were different and the same cannot be pressed into service in the peculiar facts and circumstances of the case in hand. Whether the fresh disciplinary proceedings or suspension are good or bad, justified or unjustified can be the subject matter of separate petition but we think that the same cannot be examined in this petition where only the termination order was challenged. If they are aggrieved of suspension orders or initiation of disciplinary proceedings, they may bring separate action before appropriate forum.

4. So we form the view that these three claim petitions have become infructuous with the quashing of the termination order dated 9.8.2005 and so do not survive for decision on merits. These three petitions are accordingly dismissed as infructuous but with liberty to the petitioners' to seek appropriate remedy against the suspension or disciplinary proceedings according to law.

No order as to costs.



V.C.



27.3.2006

Asthana/