

A2
2

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1058 of 1993

S.P.Singh Applicant.

Versus

Union of India & Ors. Respondents.

Hon'ble Mr. T.L.Verma, Member-J

This application has been filed for a direction to the respondents not to force the applicant to give charge of the post of Flag Station Master at Railway Station Bhannaur District Jaunpur and not to enforce the telephonic communications issued by respondent No. 3 whereby Vijay Bahadur Singh has been directed to work as F.S.M./U.N.M. Bhannaur and take full charge from the applicant.

2. The applicant Shitla Prasad Singh, Safaiwala was appointed to officiate as Assistant Goods Clerk in scale Rs. 250-450 (RS) and was posted as Flag Station Master at Railway Station Bhannaur vide Annexure-2. He worked on the said post from 11.9.1984. On 19.4.1993, the applicant was put under suspension and a memorandum along with chargesheet & statement of allegation was ~~served~~ served upon him. The order of suspension, however, was revoked by order dated 22.6.1993 vide Annexure-3. A chargesheet for
 / major penalty was also served upon him on 22.6.1993 (Annexure CA-3). He was also directed to hand over charge to Vijay Bahadur Singh by order dated 10.7.93 (Annexure CA-7). and thereafter by order dated 14.7.93 (Annex. 6). The applicant, instead of handing over charge, filed this application on 14.7.93 for the reliefs mentioned in para 1 of the judgement. An interim order, directing

the respondents to allow the applicant to continue to work as Flag Station Master Bhannaur until he gets an order of transfer posting him on equivalent post elsewhere. After the interim order was passed, the anxiety of the applicant to get the application disposed of ceased and either adjournments were sought on his behalf or no steps were taken on the date fixed for hearing on admission thereafter. Therefore, this case was heard ex-parte on 15.4.1994.

3. I have heard the learned counsel for the respondents and perused the record. It has been ~~stated~~ averred on behalf of the respondents that as the applicant was appointed on the post of Flag Station Master/Station Goods Clerk purely on a temporary local adhoc arrangement, no right has been conferred on him to continue on the said post. That being so, it was stated, ^{that} ~~that~~ the respondents put him back on his substantive post of Safaiwala because he withheld departmental revenue from 28.2.93 to 5.3.93 for which major penalty chargesheet has been served on him.

4. From the perusal of the appointment letter (Annexure A-2), it is clear that the applicant was appointed to officiate as Assistant Goods Clerk on purely temporary and local arrangement basis. The applicant has however, continued on the said post from the date of his appointment on 11.9.84 till this controversy arose. The respondents now proposed to revert him to his substantive post on the ground that he had retained the Government revenue with him instead of sending the same to the head quarters as required under Rules. The reversion, it would thus appear, is with a stigma. The respondents could have

SR

my
4

::3::

reverted the applicant to his original post, had it not been for the reason that he had contemplated misconduct, in view of the nature of his appointment. But as the reversion is with a stigma of misconduct, no such reversion can be made unless the applicant is afforded opportunity to defend himself. It is on record that the respondents have already served chargesheet ^{on him} on 22.6.93. No further action in the departmental proceeding initiated appears to have been taken so far. A further disciplinary proceeding is contemplated for noncompliance of the direction issued on 10.7.93 and 14.7.93 vide Annexure CA-6, CA-7 & CA-8. The contemplated departmental action has however, been forestalled by interim order by this Tribunal referred to above. So far as the power and competence of the respondents to initiate departmental proceeding and take action against the applicant on the basis of such inquiry ^{or to} ~~and~~ put him under suspension is concerned, there is no dispute about it. The respondents have, infact, as already been mentioned, ^{FL} ~~have~~ already initiated disciplinary proceeding against the applicant for his having retained the departmental inquiry. That being so reverting him to his substantive post for the said alleged misconduct without the inquiry having been concluded, will amount to prejudging the issue. * Such a course of action is not open to the applicant and as such the action of the respondents, in reverting ~~him~~ the applicant without the conclusion of the inquiry initiated against him, cannot be sustained.

SL

11
::4::

5. In the light of discussions made above, I deem it appropriate to dispose of this application with a direction to the respondents not to revert the applicant to his substantive post without giving him opportunity to defend himself. Any action, in that behalf, may be taken in the light of the outcome of the departmental proceeding initiated against the applicant. This application is disposed of with the above directions. There will be no order as to costs.

J. F. Khanna
Member-J

Allahabad Dated: 17.94
/jw/