Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 4th day of April 2000.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member
Hon'ble Mr. M.P. Singh, Administrative Member

Original Application no. 1368 of 1994. alongwith
Original Application no. 295 of 1996 (Parties are same in both OAs.)

G.P. Sharma,
S/o Sri M.L. Sharma,
R/o N-15/584 A-4F Kirahia,
Road, Khojwa, Varanasi.

... Applicant

C/A Shri Arvind Kumar

Versus

1. Union of India, through the Chief Engineer, (Construction) (E), N. Railway, Kashmiri Gate, Delhi-6.

2. Dy. Chief Engineer (Construction), N. Rly., Kanpur.

3. Senior Civil Engineer (Construction), N. Rly., Kanpur.

4. Dy. Chief Engineer Deisel Locomotive Works, Varanasi.

... Respondents.

C/Rs Sri P. Mathur

ORDER

Hon'ble Mr. M.P. Singh, Member-A.

By filing this O.A. no. 1368/94 applicant has challenged the correctness and legality of order dated 3.8.94 passed by respondent no. 3, to recover an amount of Rs. 5,00,950 from the salary of the applicant.

2. Brief facts of the case are that while working as officiating I.O.W. under the control of DCE (Construction), Kanpur, the applicant was reverted to his substantive grade of Rs. 1600-2660 and was also transferred to DRM, Northern Railway, N.Delhi. The applicant has alleged that despite repeated requests the respondents did not take over charge from the applicant and ultimately vide order dated 23.5.92 spared him to join his post in the office of DRM, Northern Railway, New Delhi. At the same time directions were issued to IOW/D-V to take over charge from the applicant as he was avoiding to take charge on one pretext or the other. The applicant became apprehensive that if he leaves the place without handing over proper charge to the authorised persons and if any short-coming is found in the stock he will be held responsible and will be punished. Even a small shortage of stock will be worth several lakhs and it will not be possible for a poor employee to repay the loss from his salary. In these circumstances the applicant filed an

applicantion before this Tribunal for quashing of the order dated 23.5.92 and also for the direction to the respondents not to force the applicant to join new place of posting without properly taking over of the charge from the applicant. The Tribunal in its order dated 15.6.92 passed in OA 796 of 1992, directed the the respondents not to force the applicant to proceed to the transferred place without taking over proper charge till 29.6.92. It was also made clear in the order that the applicant shall cooperate in handing over charge to the respondents or to the person authorised by the respondents. The petition was finally disposed of by the Tribunal by its order dated 29.6.92. The applicant was directed to join at the transferred place within a week from the date of taking over and handing over charge of his office. On 22.8.92 the charge was taken over by one Shri U.P. Pathak. Even after handing over charge the applicant remained in station at Kanpur and was released by the respondents to join at N. Delhi on 29.8.92. According to the applicant he was transferred from N. Delhi to DLW, Varanasi on 17.5.93, since then he is working in DLW, Varanasi as IOW. On 3.8.1994, the respondent no. 3 directed the respondent no. 4 to recover the amount of Rs- 5,00,950/- from the salary of the applicant. He has stated that in case the applicant was found guilty of any misappropriation of stock, the respondents should have issued a charge-sheet after making proper inquiry. He has, therefore, filed this OA to quash the order dated 3.8.94 and sought also direction to the respondents not to recover

any amount from the salary of the applicant in pursuance of this order.

Thereafter, a charge sheet was served on the applicant on 11.9.95, against which he has filed another O.A. 295/96 and has sought direction to quash the charge sheet dated 11.9.95 issued by Chief Engineer, DLW, Varanasi.

3. According to respondent No. 3 since the applicant at the relevant time is posted in the office of the Deputy Chief Engineer (DLW) and as such, the action for recovery of the amount against the shortage of material was to be initiated by the aforesaid authority as per rules affecting only a draft statement for article of charges is being prepared by answering respondents but rest of the enquiry will be conducted by the authorities concerned under whom the applicant is presently working. They have categorically stated that necessary recovery of the amount will be effected only after completion of the disciplinary proceedings in which all the reasonable opportunities will be given to the applicant. In support of the contentions, the respondents have annexed the draft statement as Annesure CA-I. Respondents had further reiterated their contentions by making submissions that necessary recovery for the alleged discrepancy of the shortage of materials will be effected only after completing the requisite formalities as required under the rules as such the present application is premature.

4. The applicant had subsequently filed O.A. 295/96 in which the applicant has alleged that the charge sheet is nothing but a fictitious manipulation in order to implicate the applicant in a false embezzlement case. The respondents in their counter affidavit has specifically pleaded that the action of effecting the recovery on account of shortage of store material was initiated from the office of the Senior Civil Engineer (Construction), N. Rly., Kanpur, as the applicant at the relevant time was posted under the effective control of the Senior Civil Engineer (Construction). Similarly the draft charge sheet was framed by the authorities under whom the applicant at the relevant time was working but further investigation is being conducted where the applicant is presently working.

5. During the pendency of the instant application, the respondents through M.A. 800/98 in O.A. 295/96 had filed an additional counter reply. In support of their contention made by them, it has been stated that the inquiry proceedings as issued vide OM dated 11.9.95 has been finalised and a detailed report had been submitted by the Enquiry Officer. As per the rule after considering representation of the applicant, the necessary punishment order has been passed by the competent authority on 22.10.97 imposing penalty to recover an amount of Rs. 2,72,850/- for the shortage of Railway Property from the salary of the applicant in 100 equal instalements. This order was passed by

giving liberty to the applicant to prefer an appeal against the order dated 22.10.97.

6. The learned counsel for respondents stated that he is not aware whether or not an appeal against the Punishment order dated 22.10.97 has been filed by the applicant.

7. In view of the above facts it is clear that both the applications filed by the applicant are premature. Even the inquiry held against him was not complete and no order imposing penalty to recover the amount from the salary of the applicant was passed by the respondents before filing both the O.As i.e. 1368/94 and 295/96. The O.A. No. 1368/94 and 295/96 are therefore, dismissed and disposed of accordingly. A copy of this order may be kept in O.A. 295/96.

No order as to costs.

Sd/-
Member (A)

Sd/-
Member (J)