

Open Court.

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 18th Day of August, 2000.

Coram: Hon 'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon 'ble Mr. S. Dayal, A.M.

Original Application No. 138 of 2000.

Khairati Khan,
son of Sri Rajjab Khan,
Resident of Mohalla Mardan Naka,
Banda City, Banda,
at present Chief Ticket Inspector,
Central Railway, Banda.

. . . Applicant.

Counsel for the applicant: Sri Vikram Nath, Adv.

Versus

1. Union of India through Secretary, Railways,
Rail Bhawan, New Delhi,
2. Divisional Railway Manager, Central Railway
Jhansi.
3. Senior Divisional Commercial Manager,
Central Railway, Jhansi.

. . . Respondents.

Counsel for the respondents: Sri Prashant Mathur, Adv.

Order (Open Court)

(By Hon 'ble Mr. Justice R.R.K. Trivedi, V.C.)

We have heard Sri Vikram Nath, learned
counsel for the applicant and Sri Prashant Mathur
learned counsel for the respondents.

2. By this application under section 19 of the
Central Administrative Tribunals Act 1985 the

order dated 02.12.99 (Annexure-1) to the application has been sought to be quashed. It has also been prayed that the respondents may be directed not to proceed with the enquiry proceedings in pursuance of the impugned order.

3. The learned counsel for the applicant has also submitted that as Criminal proceedings are pending with regard to the same incident in respect of which misconduct has been alleged for initiating disciplinary proceedings and evidence in both the proceedings is also identical, the disciplinary proceedings are liable to be stayed in view of the judgment of the Hon'ble Supreme Court in case of Captain M. Pal and Dhani Vs. Bharat Coal Mines Limited and others 1999 A.I.R. S.C.W. 1098.

4. Sri Prashant Mathur, learned counsel appearing for the respondents on the other hand has submitted that the applicant also lodged cross F.I.R. in respect of the same incident and he disclosed his stand vis-a-vis the incident and ~~not~~ ^{no} prejudice is likely to be caused to him if the disciplinary proceedings are allowed to continue. The learned counsel for the respondents has also relied on the judgment of Hon'ble Supreme Court in case Melsa Nath Vs. Union of India A.I.R. 1992 S.C. 1981.


5. We have carefully considered the submissions of learned counsel for the parties. However, we do not think that we are required to enter into




examination of the controversy raised before us as this application is liable to be rejected on the ground that there is no material on record to show that criminal proceedings have been actually initiated against the applicant. On record there is only first information report lodged on 5.9.1999 under section 323 I.P.C. and 145 of Railway Act at/^{G.R.P.}Police Outpost Mahoba. Both the offences are non cognizable. There is ^{no} averment in the application or in the counter affidavit that pursuant the said F.I.R. any investigation was done by the Police and chargesheet has been filed in the court. Initiation of the Criminal proceedings commences from the date cognizance is taken by the court. There is no material on record to show that after investigation chargesheet has been filed and court has taken cognizance. The applicant is not facing any investigation enquiry or trial on the basis of alleged F.I.R.

6. In the aforesaid circumstances no case for staying disciplinary proceedings is made out. The application is accordingly rejected. However, the liberty is given to the applicant to approach the Tribunal if criminal proceedings are started.

There shall be no order as to costs.


Member (A.)


Vice Chairman

Nafees.