

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD.

Original Application No.1140 of 2003.

Allahabad this the 19th day of September, 2003.

Hon'ble Maj Gen KK Srivastava, Member (A)

B.L. Anand son of Late Sri Badri Prasad,
Head Booking Clerk
Govindpuri, North Central
Railway, Kanpur.

.....Applicant.

(By Advocate : Sri R.P. Singh)

Versus.

1. Union of India through the
General Manager, North Central
Railway, Allahabad.
2. Chief Traffic Manager,
North Central Railway,
Kanpur Central.
3. Senior Divisional Personnel Officer,
North Central Railway,
Allahabad Division, Allahabad.


.....Respondents.

(By Advocate : Sri A.K. Gaur)

O_R_D_E_R

In this O.A., filed under section 19 of
Administrative Tribunals Act 1985, the applicant has
prayed for quashing the suspension order dated
18.11.2002 (Annexure A-1).

2. The facts, in short, are that the applicant is
presently posted as Head Booking Clerk, Govindpuri
Railway Station, Kanpur. Applicant has been placed
under suspension by the impugned order dated 18.11.2002
under Rule 5 (1) of Railway Servant (Discipline and
Appeal) Rules 1968. The grievance of the applicant is



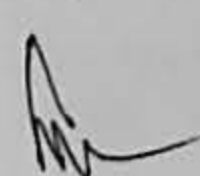
that though nearly 10 months have elapsed but neither respondents have carried out any review of suspension of the applicant nor have they so far initiated any Disciplinary Proceedings. The applicant is subjected to ^{by}unavoidable harassment by keeping him under suspension for such a long period without any reasons.

3. Learned counsel for the applicant submitted that the case of the applicant deserves to be allowed and suspension order is liable to be quashed.

4. Learned counsel for the respondents, on the other hand, submitted that Divisional Railway Manager, North Central Railway, Allahabad has not been impleaded as party, in spite of the fact that representation placed on record are addressed to Divisional Railway Manager, North Central Railway, Allahabad.

5. Heard learned counsel for the parties and perused record.

6. Admittedly, applicant has been placed under suspension by order dated 18.11.2002 and so far no chargesheet has been issued. Not only this, from perusal of Annexure A-2 which is transfer order dated 28.11.2002 and also Annexure A-6 transfer order dated 06.02.2003, the applicant has been transferred and nowhere in the transfer order, the status of the applicant has been stated, whether he is under



suspension or not. Since the applicant is under suspension, he could not be transferred without revocation of suspension order. Rule 5 of the Railway Servant (Discipline and Appeal) Rules 1968 lays down the provision of review and suspension cases and according to the Rule on the subject, it is obligatory for the Competent Authority to review each case where suspension is continued beyond 3 months.

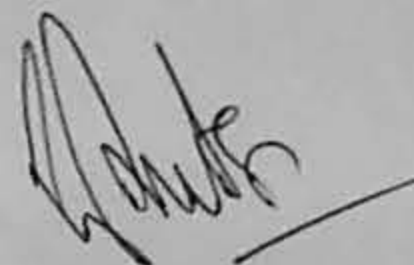
7. Learned counsel for the applicant has specifically prayed for revocation of suspension order and also permission to file representation before Divisional Railway Manager, North Central Railway, Allahabad.

8. Having heard learned counsel for the parties, in my considered opinion, the interest of justice shall better be served, if the applicant files a detailed representation before Divisional Railway Manager, North Central Railway, Allahabad within 2 weeks, which should be decided by a reasoned and speaking order. It has been held by various superior Courts as well as Tribunal that 'suspension' is not a punishment and normally court should not intervene in the matter of suspension. However, since the applicant continues under suspension for last 10 months and disciplinary proceeding have not been initiated even after lapse of considerable time, the matter should be personally looked into by Divisional Railway Manager, North Central Railway, Allahabad regarding continuance of suspension or otherwise.

9. For the aforesaid reasons, the O.A. is disposed of at admission stage itself, with direction to Divisional Railway Manager, North Central Railway, Allahabad to decide the representation of the applicant



within a period of two months by a reasoned and speaking order from the date of receipt of such representation alongwith copy of this order. However, if it is considered necessary to initiate the Disciplinary Proceedings Divisional Railway Manager, North Central Railway, Allahabad shall issue suitable direction to the Disciplinary Authority for the finalisation of the same within specified time frame as per rules.



Member-A.

Manish/-