

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

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original Application No. 1392 of 2003.

this the 14th day of November 2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

prem shanker Singh, s/o Sri Vishwanath Singh, R/o Village
Kuchman post Keshavpur, District Chandauli.

Applicant.

By Advocate : Sri Kamleshwar Singh.

Versus.

1. Union of India through D.R.M., Eastern Railway, Danapur.
2. Sr. D.R.M. D.N.R. Eastern Railway, Danapur Division, Danapur.
3. Divisional Commercial Officer, Eastern Railway, Danapur Division, Danapur.

Respondents.

By Advocate : Sri K.P. Singh.

ORDER

By this O.A., applicant has challenged the order dated 6.8.2003 whereby he ~~was~~ ^{was R} put under suspension due to the disciplinary proceedings contemplated/pending against the applicant (page 15).

2. It is submitted by the applicant that he was initially appointed as A.S.M. in 1980 on compassionate grounds and promoted as S.M. in 1988 and Dy. Station Manager at Mughalsarai. In 1998 he was transferred from Mughalsarai to Howrah Division on administrative grounds and was posted at Noardardhal station. He was again transferred from Howrah to Danapur Division on 8.5.2001. It is submitted by the applicant that he had reported at Danapur, but there was some confusion and the applicant was sent back to Howrah Division in his present capacity and pay because the relieving orders produced/submitted by him have not been issued by the proper authority of Howrah Division. Being



aggrieved, applicant filed O.A. no. 500 of 2002 before this Tribunal, which was disposed off on 9.5.2002 with a direction to the applicant that he may file fresh representation before the G.M., Howrah Division, which shall be decided within three months thereafter and till then the impugned order is kept in abeyance. Accordingly, the applicant filed a fresh representation before the G.M., Howrah on 13.5.2002 and the G.M., Howrah had decided his representation on 25.7.2002 (Annexure-6) whereby it was reiterated that Sri P.S. Singh ^{may have been} has to be sent back to Howrah Division as he ^{is} involved in a serious matter of fraud committed against the Eastern Railway administration. He once again challenged this order by filing O.A. no. 1141 of 2002 and this Tribunal has been pleased to grant status quo order with regard to the applicant on 11.10.2002, but in spite of the stay order granted by this Tribunal, the applicant has been suspended on 6.8.2003. He has further submitted that till date neither there is any enquiry, nor any criminal offence pending against the applicant in any court of law, therefore, this order of suspension is absolutely bad in law, arbitrary and is liable to be set-aside. In short, the arguments advanced by the applicant is that once this Tribunal had granted status quo order in the petition filed against the order dated 25.7.2002, wherein it was alleged that Sri P.S. Singh ^{may have been} involved a very serious matter of fraud, the applicant could not have been suspended.

3. I have heard the applicant's counsel and perused the pleadings as well.

4. The order dated 6.8.2003 shows that the order was passed on the following grounds:

Whereas a disciplinary proceeding against Sri P.S. Singh, DY SS|Dheena is contemplated/pending, therefore, he is being placed under suspension with immediate effect. Therefore, it is not necessary that the suspension could have been passed only when the enquiry was infact pending ac



against the applicant, but the applicant can be suspended even when a enquiry is contemplated against the person concerned. When the applicant had challenged the earlier order dated 25.7.2002 before this Tribunal, the Tribunal had passed the following order:

Status quo with regard to the applicant shall be maintained till the next date. This order has to be read with reference to the context because in the impugned order, therein the respondents have reiterated that the applicant has to be sent back to Howarah Division, so at best the meaning of status quo would be the status of the applicant ^{with regard to his posting} should remain the same whatever it was on 11.10.2002. It does not mean that ^{in view of} status quo order, the respondents cannot take any other action which is permissible under the rules. The Rules do permit to suspend a person, due to the pendency or contemplated enquiry against the person concerned. There is, however, one aspect which requires consideration. It is seen that the suspension order was issued on 6.8.2003, but according to the applicant, till date no enquiry has been initiated against him. It goes without saying that the Govt. of India has issued instructions on the subject of suspension, wherein it is stipulated that even though the suspension is not a punishment, but it does cause mental torture to the person who has been suspended and even otherwise the department has to make payment to the suspended officer without taking any work from him. Therefore, in the interest of both the employee as well as the administration the suspension should not be prolonged indefinitely and if due to the some reasons it is taking long to decide the matter, atleast the case should be reviewed after three month to see whether the suspension is required to be continued or the same can be revoked by posting the person concerned to a non-sensitive post. In the instant case, since till date no chargesheet has been issued to the applicant, this O.A. stands disposed off at admission stage itself by giving a direction to the respondents to place the case of the

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applicant before the review committee to see whether the suspension is required to be continued or the same can be revoked and he can be posted to a non-sensitive post. The respondents shall complete this exercise within a period of four months from the date of receipt of copy of this order by passing a reasoned and speaking order thereon under intimation to the applicant.

5. With the above directions, the O.A. stands disposed off at admission stage itself with no order as to costs.


MEMBER (J)

GIRISH/-