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OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 888 OF 2006.

ALLAHABAD THIS THE 15TH DAY OF NOVEMBER 2006.

**HON'BLE MR. JUSTICE KHEM KARAN, V.C
HON'BLE MR. M. JAYARAMAN, A.M**

Moti Lal Kushwaha
Aged about 50 years
S/o Shri Halkooram.
R/o Near Subhash School Pulia NO.9,
Jhansi.

.....Applicant.

(By Advocate : Sri R.K. Nigam)
Versus.

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi.
3. Smt. Maya w/o Kunji Lal, R/o Kachchya House No. 311 Jhansi.

.....Respondents.

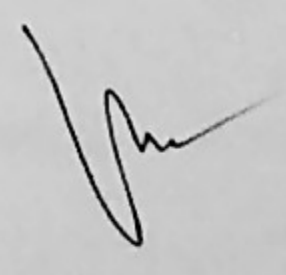
(By Advocate: Sri D. Awasthi/Sri Vinod Kumar)

ORDER

By MR. JUSTICE KHEM KARAN, V.C

Heard Sri R.K. Nigam, learned counsel for the applicant. None for the official respondents. Sri Vinod Kumar, learned counsel for the respondent NO.3.

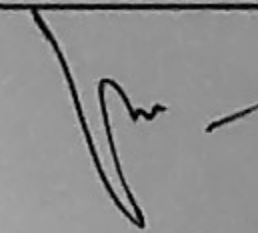
2. The applicant has come to this Tribunal praying for quashing the impugned chargesheet dated 2.8.2006 (Annexure 1) or to stay the same until conclusion of the criminal proceedings. He has also prayed for commanding the respondents not to give effect to the impugned chargesheet in any manner.



3. It transpires from perusal of the copy of chargesheet that the charge against the applicant is that he obtained employment in Railway, by wrongly or fraudulently showing him to be 8th pass, while infact he was not so. It has been averred in the O.A that now after a period of about 24 years of service, such an allegations is being levelled by none else but by his real sister/opposite party No.3, owing to certain family disputes.

4. Sri R.K. Nigam, learned counsel for the applicant has stated that a criminal case No. 1881/02 G.R.P is already pending in the Court of Railway Magistrate, Jhansi almost on the same facts. He says that the copy of F.I.R. (Annexure 3) would reveal that same allegations have been levelled against the applicant that he secured employment in the Railways by misrepresenting the fact as regards his educational qualification. Learned counsel for the applicant has further stated that in view of standing instructions issued by D.O.P. & T and also by the Railways in such matters where criminal proceedings as well as Departmental Proceedings on identical facts are proceeding simultaneously, the departmental proceedings should be stayed. Learned counsel for the applicant has also stated that in case these Departmental proceedings are not stayed, the applicant may be prejudiced in h is defence in criminal case and not only this likelihood of contradictory results is also not ruled out.

5. Sri Vinod Kumar, learned counsel for the respondent NO.3 has, however, submitted that in view of the law laid down by the Apex Court in Ram Saran Vs. I.G. of Police, C.R.P.F and others 2006 (1) SCCD

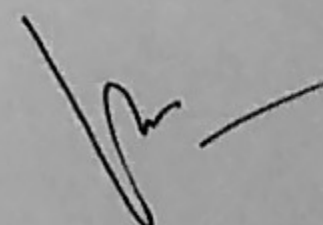


347(SC) and also by Hon'ble High Court of Allahabad in Sudama Singh and three others Vs. State of U.P and two others [2005 (2) JIC page 635 (All)]. The departmental as well as criminal proceedings may go on simultaneously. He says that it is not necessary that Departmental proceedings should be stayed because of pending criminal proceedings.

6. We have gone through both these judicial pronouncement. We do not express our view as to whether in the instant case the Departmental proceedings should be stayed because of criminal proceedings pending in the Criminal Court, because the Authority before whom the departmental proceedings are pending, has not passed any order on such an issue. In case the applicant feels that departmental proceedings should be stayed on the said ground, the proper course is to give self contained representation to the Disciplinary Authority or to the Enquiry Officer and in case such representation is given, the Authority concerned will pass suitable orders in accordance with law and Rules within a period of one months from the date such representation so given together with copy of this order.

7. Sri R.K. Nigam has stated that this O.A. may be finally disposed of with suitable direction to the Authority concerned to consider the request of the applicant to stay the departmental proceeding during the pendency of criminal proceedings in the light of relevant law.

8. We find no difficulty in disposing of this O.A. as requested by Sri R.K. Nigam, learned counsel for the applicant.



9. So the O.A. is accordingly disposed of with a direction that in case the applicant gives a representation to the Disciplinary Authority or to the Enquiry Officer within a period of one month from today, the Authority concerned will consider and pass suitable orders thereon in accordance with law and Rules within a period of one month from the date such representation is so given together with copy of the order.

No order as to costs.

Manish
15.11.56



Member-A

Vice-Chairman.

Manish/-