

(6)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

ORIGINAL APPLICATION NO. 411 OF 2007.

ALLAHABAD THIS THE 18TH DAY OF MAY 2007.

Hon'ble Mr. Justice Khem Karan, V.C.

R.C. Arya, son of Shri M.P. Arya, R/o H. NO.-1, Type V Quarters, CTO Compound, District Bareilly.

.....Applicant

(By Advocate: Sri A. Rajendra)

Versus.

1. Union of India through Secretary, Ministry of Communication and Information Technology, Department of Telecommunication, Sanchar Bhawan, 20 Ashoka Road, New Delhi.
2. The Under Secretary to the Government of India, Ministry of Communication and Information Technology, Department of Telecommunication, Sanchar Bhawan, 20 Ashoka Road, New Delhi.

.....Respondents

(By Advocate: Sri S. Singh)

O R D E R

Heard Sri A. Rajendra, learned counsel for the applicant and Sri S. Singh, learned counsel for the respondents.

2. The applicant was placed under suspension vide order dated 17.4.2007, on the ground that investigation in respect of criminal offence was pending. Applicant challenged this order on the grounds inter alia that no criminal investigation was infact pending on the date the suspension order was passed. This Tribunal vide its order dated 27.4.2007, after giving time to the respondents' counsel, to seek instructions especially in regard to the allegations that no criminal investigation was pending on the date the impugned order dated 27.4.2007 was passed, ^{Stayed} staying the operation of suspension order. The respondents have filed counter affidavit, saying that the matter was under investigation by C.B.I. It has not specifically been stated, as to whether, this investigation by C.B.I was pending, on the date, applicant was placed under suspension.

(7)

2.

3. It is said in para 9 that, investigation started on 15.4.2007 departmentally. One is still to find out, as to what is meant by "Investigation by the Department". The learned counsel for the respondents has produced before me, a copy of order dated 7.5.07 passed by a Division Bench of this Tribunal In O.A. NO. 457 of 2007, and has submitted that the present O.A should be disposed of on the same lines. A perusal of this order reveals, that O.A. has been disposed of with liberty to the applicant to move petitioner Under Rule 29-A of the CCS(CCA) Rules, 1965.

4. Shri A. Rajendra, learned counsel for the applicant has submitted that firstly, Allahabad High Court has, in the case of V.K. Bhaskar Vs. Bharat Sanchar Nigam Ltd. and others in writ petition No. 2205 of 2007, stayed the operation of similar order of suspension and so this Bench is not under legal obligation to dispose of the O.A. in the way, the Division Bench did in O.A. No.457/07. His second submission is that power, under Rule 29A of the Rules of 1965, does not give a right to the servant to file a review, so the same cannot be used, so as to finally dispose of the O.A. with a provision that the applicant should approach the Authority concerned under Rule 29-A of the Rules of 1965.

5. I have considered the respective submissions. The Tribunal does not want to enter into the controversy as to whether the provision of Rule 29-A of the Rules of 1965 could be invoked by the employee concerned and as to whether, Reviewing Authority will be justified in invoking its power at the instance of an employee. The reason is that the Division Bench of this Tribunal has already taken a view that employee can approach the Reviewing Authority under Rule 29-A. Sitting Single, I am not supposed to take any different view. Secondly, there is no dispute that the case of the applicant is similar to the case of the applicant before the Bench in O.A. NO.457/07. It seems appropriate that consistency in actions of this Tribunal, should be maintained. To keep this O.A. pending may not be consistent with the decision dated 7.5.07 in O.A. No.457/07. So, I am inclined to dispose of this O.A., in the same way as Division Bench of this Tribunal disposed of O.A. No.457/07.

✓

(9)

3

6. In the circumstances, there is no occasion for me to express any view as to whether suspension in question is bad for the reasons that investigation into the criminal offence was not pending on the date the suspension was resorted to. The matter may be considered by the Reviewing Authority in the light of Rule 10 of Rules of 1965 and the law.

7. So this O.A. is finally disposed of with a liberty to the applicant to file Review Application under Rule 29-A within a period of 10 days from the date of receipt of copy of this order and in case, it is done, the respondent No.1 shall dispose of the same within a period of 3 weeks from the date of receipt of such review application together with copy of this order. Stay order granted earlier stands vacated.

No costs.

1. J. Dinesh
18.5.07

Vice-Chairman

Manish/-