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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.835 of 2016
Cuttack this the 9th day of February, 2017

CORAM
HON'BLE SHRI R.C.MISRA, MEMBER(A)
HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)

Ajit Kumar Das, aged about 44 years, S/o. Bishnu Charan Das, Village-Saleswar, PO-Jeypur, PS-Balianta, Dist-Khurda - at present working as Helper, East Coast Railway, Khurda Division, Dist-Khurda

...Applicant

By the Advocate(s)-Mr.N.Lenka

H.K.Mahanta
Lalit Sahu
Mrs.Rani Lenka
Ms.Nibedita Lenka

-VERSUS-

Union of India represented through:

1. The Secretary, Railway Department, Government of India, Rail Bhawan, New Delhi
2. General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist-Khurda
3. Senior Divisional Signal Telecommunication Engineer, DRM Building, Khurda Road, Dist-Khurda
3. Divisional Signal Telecommunication Engineer-II, Khurda, Dist-Khurda

...Respondents

By the Advocate(s)-T.Rath

ORDER(Oral)

S.K.PATTNAIK, MEMBER(J):

Heard Mr.N.Lenka, learned counsel for the applicant and Mr.T.Rath, learned Standing Counsel on the question of admission.

2. In a second round of litigation, applicant challenges the speaking order dated 10.11.2016 passed by the disciplinary authority wherein he has refused to stay the disciplinary

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proceedings awaiting conclusion of CBI case pending against the delinquent employee under the Prevention of (Corruption) Act read with Sections 120(B), 420, 468, 471 IPC and Section 13(2) of P.C.Act.

3. Earlier, applicant had approached this Tribunal in O.A.No.602/16 and in obedience to the orders of this Tribunal dated 10.10.2016, the impugned order has been passed by the disciplinary authority. Applicant in the present O.A. prays to stay the disciplinary proceedings awaiting conclusion of the criminal case. Needless to say that charges have been framed against the present applicant for submitting forged certificate in respect of his educational qualification, so also *claiming & calming* compassionate appointment being son of late Bishnu Charan Das, though it is alleged to be false. Learned counsel for the applicant relying on the decision of the Hon'ble Supreme Court in Capt. M.Paul Anthony vs. Bharat Gold Mines Ltd. (AIR 1999 SC 1416) submitted that if the departmental proceedings and criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of grave nature which involves complicated questions of law and facts, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. The learned counsel for the applicant has also placed reliance on the decision reported in AIR 1998 SC 2118 (Kurbeswar Dube vs. M/s.Bharat Cooking Coal Ltd.) wherein their Lordships have

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stayed the disciplinary proceedings. While disposing of the said civil appeal, their Lordships have observed that in a given circumstances of a particular case as to whether the departmental proceedings should interdicted pending criminal trial. It is neither possible nor advisable to evolve a hard and fast, straight jacket formula valid for all cases and of general application without regard to the particularities of the individual situation.

4. In the instant case, there is neither any complicated questions of law nor facts involved and in such premises, the actions of the departmental authorities in continuing with the departmental proceedings where there is allegation of false impersonation and obtaining compassionate appointment on the basis of forged educational certificate, cannot be said to be unreasonable. Therefore, we do not see any ground to interfere in the matter.

5. That apart in the case of SBI vs. Narendra Kumar Pandey reported in (2013) 1 SCC (L&S) 459, their Lordships have observed that the disciplinary authority is expected to prove the charges of preponderance of probability and not on proof beyond reasonable doubt.

6. In a criminal trial, the accused proceeds with a presumption of innocence and the burden is on the prosecution to prove the charge beyond all reasonable doubt. In a departmental proceedings, in order to get exonerated from

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the charges, the burden is equally on the applicant to say that he had not produced any fake or forged certificate and that he was the real son of the deceased employee. So in such backdrop, the disciplinary proceedings could not be stayed awaiting disposal of the criminal case pending before the CBI Court.

7. Hence, in our considered view, the O.A. is not worthy of being admitted and hence, the same is rejected.

S.K.Pattanaik
(S.K.PATTNAIK)
MEMBER(J)

BKS

R.C.Misra
(R.C.MISRA)
MEMBER(A)

