

P.K. Jena Vrs. UOI

Admission Sl. No. 5

O.A. No. 260/00185 of 2016

Order dated: 04.04.2016

CORAM

HON'BLE SHRI R.C.MISRA, MEMBER (ADMN.)

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Heard Mr.M.Sahoo, learned counsel for the applicant and Mr.T.Rath, learned Standing Counsel on the question of admission. 2.

2. Mr.Sahoo submitted that applicant in this O.A. has challenged the order dated 23.2.2016 which is a Memorandum containing presidential order of imposing penalty of dismissal from service on the applicant on account of his conviction by the CBI Court on serious charges of corruption. Mr.Sahoo submitted that as per the ratio decided by the Hon'ble Apex Court in Tulsiram Patel's case, applicant should be given an opportunity of being heard before imposition of any punishment.

3. On perusal of Memorandum dated 23.2.2016, I find that applicant has been given an opportunity of making a representation against the provisional decision of the President within a period of 15 days of the receipt of the Memorandum, failing which it would be presumed that he has no representation to make and the case would be processed further without affording any other opportunity to him.



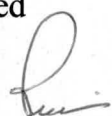
Mr.Sahoo admitted that applicant has so far not made any representation to the concerned authorities even though the Memorandum^{is} issued on 23.2.2016 and has preferred to rush to the Tribunal thereafter.

4. On the other hand, Mr.Rath, however submitted that Rule-14 of RS(DA) Rules, 1968, provides for some special procedure in certain cases. According to this Rule, where the disciplinary authority^{is}

^{is} is satisfied that if any penalty is imposed on any railway servant on the ground of misconduct which has led to his conviction of a criminal charge, the railway servant will be given an opportunity to make representation on the penalty proposed before any final order is made in the matter.


5. In the present case, it is found that in pursuance of this rule, applicant has been given an opportunity of making a representation. However, this opportunity has not been availed of by the applicant so far. There are two aspects of the case. Firstly, in response to Memorandum dated 23.2.2016, applicant has to make representation and secondly, it is a case, where applicant without availing of the departmental remedies has approached this Tribunal and therefore, the OA is hit by Section - 20^e of the A.T.Act, 1985.

6. Having heard the learned counsel for both the sides, I direct the applicant to at first make his representation to the concerned



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authorities as per Para-6 of the Memorandum dated 23.2.2016. Since there is no cause of action for the applicant, at this stage, the Tribunal cannot interfere with this matter.

7. With the above observation and direction, the O.A. is disposed of.


MEMBER(Admn.)

RK

