

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00602 OF 2016
Cuttack, this the 10th day of October, 2016

CORAM
HON'BLE MR. R.C. MISRA, MEMBER (A)

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Ajit Kumar Das, aged about 44 years, S/o: Bishnu Charan Das, Village-
Saleswar, P.O.: Jaypur, P.S. Baliana, Dist: Khurda.

...Applicant
(By the Advocate-M/s. N. Lenka, H.K. Mohanta, L. Sahoo, R. Lenka)

-VERSUS-

Union of India Represented through

1. Secretary, Railway Department, Govt. of India, Rail Bhawan, New Delhi.
2. General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist: Khurda.
3. Sr. Divisional Signal Telecommunication Engineer, DRM Building, Khurda Road, Dist: Khurda.
4. Divisional Signal Telecommunication Engineer-II, East Coast Railway, Office of DRM, Khurda Road, Khurda, Dist: Khurda.

...Respondents

(By the Advocate- Mr. T.Rath)

ORDER (Oral)

R.C.MISRA, MEMBER (ADMN.):

Heard Mr. N.Lenka, Ld. Counsel for the Applicant, and Mr. T.Rath, Ld. Standing Counsel appearing for the Respondent-Railways, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

2. Mr. Lenka, Ld. Counsel for the applicant, has submitted that the applicant is a railway employee who was given compassionate appointment after his father, who was also a railway employee, died in harness. The Railway authorities received a petition that the applicant was actually not the son of late



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Bishnu Charan Das and on receipt of the same, the vigilance wing of the E.Co.Railway, directed the local Tehsildar to cause an inquiry in the matter. The Tehsildar caused an inquiry and sent a report to the Railway authorities vide his letter dated 25.05.2015. The Railway authorities on further consideration of the matter handed over the matter for inquiry to the C.B.I. Further by an order dated 03.02.2016, the applicant was put under suspension w.e.f. 03.02.2016. However, the order of suspension was revoked on 31.03.2016. However, by an order dated 10.05.2016 a charge sheet was issued by the Respondent No. 4 and a departmental inquiry was initiated against the applicant. In the meantime, the CBI authorities after investigation into the matter have lodged an F.I.R. against the applicant. Apprehending arrest in the matter, the applicant also obtained anticipatory bail from the Hon'ble High Court of Orissa. In the meantime, the criminal proceedings vide Khurda C.B.I. SPE Case No. RCO1520150011 has also been initiated against the applicant and is pending in the court.

3. Based upon the above facts, the submission of Ld. Counsel for the applicant is that the criminal case and the disciplinary proceedings which have been initiated are based on the self same charges. During the pendency of the criminal proceeding if the departmental proceedings will also continue then it will cause great prejudice to the applicant. The specific prayer made by the Ld. Counsel for the applicant is that the departmental proceedings as at Annexure-11 of the O.A. may be stayed till the disposal of the criminal proceeding pending in the court of Special Judge, CBI, Bhubaneswar.

4. Arguing on behalf of the Respondent-Railways, Mr. T.Rath, Ld. Standing Counsel, cited the case of *Captain M.Paul Anthony Vs. Bharat Gold*

Mines Ltd. as reported in AIR 1999 SC 1416 in which the law is well settled that when the departmental proceedings and criminal case are based on identical set of facts then the Respondent-authorities may keep the disciplinary proceeding in abeyance pending the disposal of the criminal case. Mr. Rath further argued that the applicant in the present O.A. has not brought any evidence to prove his submission that the charges are identical in both the criminal case as well as departmental proceeding and, therefore, the case does not merit admission.

5. Ld. Counsel for the applicant, on the other hand, further submitted that after the charge sheet was issued against the applicant on 10.05.2016, he has filed a written statement of defence before the DSTE-II, Khurda Road of E.Co.Railway (Respondent No.4). A copy of this written statement is available at Annexure-12 but this does not bear any date. However, the Ld. Counsel for the applicant submits that this has been filed well within time.

6. I also find that by an order dated 01.08.2016, the Disciplinary Authority has appointed the Inquiry Officer as well as Presenting Officer. However, on perusal of the order of appointment of the I.O., I find that there is no mention whether the written statement of defence of the applicant was considered before appointment of I.O. In the written statement of defence, the applicant has made a specific prayer that the departmental proceeding initiated against him be kept in abeyance or stayed till disposal of the criminal case pending in the CBI court.

7. Taking into account the submissions of the Ld. Counsels for both the sides, I am of the opinion that it will be appropriate at the stage of admission to direct the Respondent No.4 to consider the written statement of



defence and all the points raised by the applicant therein and dispose of the matter before he proceeds further with the departmental inquiry. Therefore, without issuing notice and without going into the merits of the case, I direct Respondent No.4 to consider the written statement of defence/representation of the applicant and dispose it of with a reasoned and speaking order to be communicated to the applicant within a period of four weeks of receipt of the copy of this order. It is further directed that no further steps with regard to inquiry shall be taken until the representation is disposed of and decision is communicated to the applicant.

8. With the aforesaid observation and direction, this O.A. stands disposed of at the stage of admission.

9. Copy of this order along with paper book be communicated to Resp. No. 4 by Speed Post at the cost of the applicant for which Mr. Lenka, Ld. Counsel for the applicant, undertakes to file the postal requisites by 14.10.2016.

10. Free copy of this order be also made over to the Ld. Counsels for both the sides.


(R.C.MISRA)
MEMBER (A)

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