

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

OA.795 of 1996

Date of Order: 22-01-98.

Bench: Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman.
Hon'ble Mr. S. Dasgupta, Administrative Member.

GOPAL CH. DAS

-VS-

UNION OF INDIA & ORS.

For the petitioner: Mr. N.K. Ghosh, counsel.

For the respondents: Mr. C. Samaddar, counsel.

Heard on: 22-01-98.

O R D E R

S. Dasgupta, A.M.

After hearing the ld. counsel for both the parties, we admit this application and on consent of both the parties, we take up this matter for final disposal as on to-day's list.


This application was filed under section 19 of the A.T. Act, 1985 challenging a notice dated 2.5.96 served on the applicant in exercise of the powers of the Disciplinary Authority under rule 14(i) of the Railway Servant (Conduct and Appeal) Rule. It appears from the record that the applicant was involved in a case of theft of diesel. He was proceeded against under the relevant rules under section 3 of the RP(UP) Act for unlawful possession of Railway property. He was ^{but,} convicted under the provisions of ^{the Probation &} Offenders act ~~and~~ was ~~also~~ released on being admonished. Thereafter, the respondents had issued an impugned notice asking the petitioner to show cause why he shall not be removed from service as his conduct leading to the conviction, has been considered to be such that his further retention in public service, shall not be considered desirable.

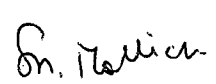
The main grievance of the applicant is that since he has been released in terms of the provisions of the ^{Probation &} Offenders Act after being admonished, he cannot be removed from service in terms of the provisions of the rule 14(i) of the R.S. (D&A) Rules, 1968.

We have considered the aforesaid contention. Under the provisions of this Act, it ^{do not} ~~has~~ restrained the disciplinary authority from considering the conduct leading to the conviction of the employee and thereafter taking appropriate action in terms of the rule 14(i) of the R.S. (D&A) Rules, 1968. Only point to be considered is ~~that~~ whether the disciplinary authority has applied its mind to the conduct which led to the conviction of the employee and thereafter taking a decision to remove the employee from service. The impugned notice indicates that the disciplinary authority had applied its mind and had come to the conclusion that his conduct was such that his continuance in service was not in public interest. We, therefore, ~~do~~ not find any infirmity in the aforesaid notice.

We have noticed that although the applicant was given opportunity by the impugned notice to ~~submit the~~ show cause why he should not have been removed, he did not avail of the opportunity. Subsequently, when the case came up for admission, the applicant was ~~specifically~~ specifically directed to submit reply to the show cause notice and after so much time has passed, he has not availed of this opportunity.

In the circumstances, we see no reason to interfere with the actions taken by the respondents and the application is accordingly dismissed. We, however, provide that in case the applicant, even at this stage, submits ^{-ation} representative reply to the impugned show cause notice, the same may be considered ~~by~~ by the respondents on its merit before passing a final order. The application is dismissed without passing any order as to cost.


(S. Dasgupta)
Member(A).


(S.N. Mallick)
Vice-Chairman.