

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 244/2009

Date of order: 9.4.2010

CORAM:

**HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER**

**Anand Kumar Choora son of Shri Amrit Lal senior
Engineering Assistant, Door Darshan, High Power
Transmitter, Masuria Hils, Jodhpur, R/o Hatariyon Ka
Chowk, Jodhpur.**

...Applicant.

Mr. Vinay Mehta, counsel for applicant.

VERSUS



1. Union of India through the Secretary, Ministry of Information and Boardcasting, "A" Wing, Shastri Bhawan, New Delhi.
2. Director General, Prasar Bharti (Broad Casting Corporation of India) Doordarshan, Doordarshan Bhawan, Copoernics Marg, New Delhi 110 001.
3. Chief Executive Officer, Prasar Bharti (Board Casting Corporation of India), Doordarshan, Doordarshan Bhawan, Copernics Marg, New Delhi 110 001.

... Respondents.

Mr. M. Godra proxy for Mr. Vinit Mathur, counsel for respondents.

ORDER

Per Hon'ble Mr. Justice S.M.M. Alam, (JM)

1. Applicant, Anand Kumar Choora, Senior Engineering Assistant, Doordarshan, High Power Transmitter Jodhpur has filed this Original Application for grant of following relief:-

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That the impugned orders Annexure A -1 and Annexure A-2 may kindly be quashed. Consequently the respondents may kindly be directed to treat the applicant on duty and pay him due salary for the aforesaid period. Any other order, as deemed fit, giving relief to the applicant may also be passed and costs may also be awarded to the applicant.

The brief facts of the case are as follows:

2. The applicant is an employee of Union of India under the Ministry of Information and Broadcasting and is on deputation in the Prasar Bharti . He is presently posted at Jodhopur. He was appointed on the post of Engineering Assistant in December 1984 in AIR, Jodhpur and thereafter he was promoted on the post of Senior Engineer Assistant. On 9.6.2005. the applicant alongwith one Sh. S.K. Jha and nine other were served with a charge sheet alleging therein that a criminal case was initiated against him and others in CBI Court. On the said charge sheet a joint inquiry was initiated against him and others. In the meantime, the applicant filed O.A. 283/2008 with a prayer to stay the disciplinary proceedings initiated against him pending decision of the criminal case and this Tribunal vide order dated 29.10.2007 stayed the proceedings in the departmental inquiry. It is further stated that on 15.1.2000 the applicant was put under suspension with regard to the above said criminal charge

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which was later on revoked vide order dated 25.11.2002. However, in the criminal case the applicant alongwith S.K. Jaha and Dhan Singh Deora, Shiv Ram Chaudhary and three others were convicted for offences under Rule 120 B, 465, 471 IPC and Section 13 (1) and 13 (2) of Prevention of Corruption Act, 1988 vide (Annexure A-3) by Judgment and order dated 18.3.2009, but the applicant preferred appeal before the Hon'ble High Court against the conviction bearing no. SB Cr. Appeal No. 181/2009 (Annexure A-4). The said appeal has been admitted for final hearing and the sentence passed against the applicant has been suspended vide order dated 23.3.2009 (Annexure A-4). Thereafter the applicant filed representation (Annexure A/5) on 14.3.2009 annexing therewith the order of the Court with regard to suspension of his sentence and admission of the appeal. But, respondent no.3 vide order dated 10.8.2009 (Annexure A-1) passed in term of Sub- Rule (2) of Rule 10 of the CCS (CCA) Rules, 1965 put the applicant under suspension till further order, which order is under challenge in the present O.A. It is stated in the application that the applicant was released on bail on 23.3.2009 and by filing an application before respondent no.3 he has prayed to review the order of suspension before expiry of period of 90 day's under Rule 10(6) & (7) of CCS (CCA) Rules, 1965, but no order was passed by the respondent no.3 and so the order of suspension become invalid after expiry of period. Thereafter the respondent no.3



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issued another order dated 18.9.2009 in exercise of power conferred under Rule 19 informing the applicant that he intends to impose upon the applicant extreme penalty of removal/dismissal/compulsory retirement from service. This order of the respondent no.2 has been annexed as Annexure A-2 and the same is also under challenge in the present O.A. It is pleaded that since against the conviction of the applicant an appeal is pending as such the issuance of the order dated 18.9.2009 (Annexure A-2) by respondent no.3 under Rule 19 CCS (CCA) Rules 1965 is not in accordance with law and as such the same should be quashed and set aside.



3 On filing of the application notices were issued to the respondents and the respondents have made appearance through their lawyer and have filed joint reply of the O.A. According to the reply the order of suspension of the applicant i.e. Annexure A-1 and the issuance of notice to the applicant of removal from service under Rule 19 of CCS (CCA) Rules, 1965 is in accordance with law and so no interference is required in the order.

4 We have heard the learned Advocates of both the sides at length. During the course of arguments the learned Advocate of the respondents submitted that as no final order with regard to removal or dismissal of the applicant was passed by the authority concerned and only a notice has been issued under Rule 19 of CCS (CCA) Rules, 1965 as such this

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O.A. is premature. He further submitted that admittedly Dhan Singh Deora was also convicted alongwith applicant in the criminal case and the said Dhan Singh Deora had filed O.A. No. 224/2009 which was disposed of on 21.1.2010 and by the said order this Tribunal has dismissed the O.A. filed by the said Dhan Singh Deora with observation that the same is premature and not maintainable. However, the liberty was given by the Court to the applicant of the said case to file a representation before the disciplinary authority in connection with the memorandum and respondents were directed to decide the representation of the applicant within a period of one month from the date of filing of the such representation.



The learned counsel for respondents submitted that similar order can also be passed in this O.A. We are satisfied that the instant case is fully covered by the order passed by this Tribunal on 21.1.2010 in the O.A. 224/2009 and as such same order can also be passed in this case also.

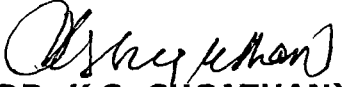
5. In the circumstances mentioned above, this O.A. is dismissed with the observation that the same is premature and not maintainable. However, the applicant is given liberty to file representation before the disciplinary authority in connection with the memorandum issued under Rule 19 Of CCS (CCA) Rules, 1965 (Annexure A-2). It is further ordered that on filing of such representation the respondents shall pass final order thereon in accordance with law preferably

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within a period of 3 months from the date of receipt of such representation. In the circumstances of the case there will be no order as to costs.


(DR. K.S. SUGATHAN)
ADMINISTRATIVE MEMBER


(JUSTICE S.M.M. ALAM)
JUDICIAL MEMBER

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दिनांक 17/12/15 के आदेशानुसार
मेरी उपस्थिति में दिनांक 10-2-16
को भाग-II व III नष्ट किए गए।

अनुभाग अधिकारी
केन्द्रीय प्रशासनिक अधिकारी
जोधपुर न्यायपीठ, जोधपुर

13/12/10