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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR**

**Original Application No.82/2010**

Date of decision: 25.02.2011

**Hon'ble Mr. Sudhir Kumar, Administrative Member.**

Kanhaiya Lal S/o Shri Ramchandra, aged about 36 years, by caste Khatik, R/o T-87 New Loco Railway Colony, Ratanada, Jodhpur. (Post Ticket Collector at Jodhpur Railway Station, North Western Railway, Jodhpur).

: Applicant.

Rep. By: Mr. Sukesh Bhati, counsel for applicant.

**Versus**

1. Union of India through the General Manager, North Western Railway, Jaipur (Rajasthan).
2. The Divisional Railway Manager, North Western Railway, Jodhpur (Rajasthan).
3. The Assistant Commercial Manager, North Western Railway, Jodhpur (Rajasthan).


: Respondents.

Rep. By: Mr. Kamal Dave, counsel for respondents.

**ORDER**

The applicant of this case is a Ticket Collector at Jodhpur Railway Station, North Western Railway. He is before this Tribunal, aggrieved by the order of suspension dated 02.02.2010, Annexure-A/1, passed by the respondents placing him under suspension with immediate effect, and has sought for this suspension order to be quashed and set aside, and further prayed to be reinstated in service, with all back wages and consequential benefits, as well as the costs of litigation, alongwith any other reliefs.

2. The applicant states that he was assigned the work of collecting the tickets and affixing the charts on board, and to remain at the platform. On 17.12.2009, he received a call from a person named Vijay Soni requesting the applicant to get him a ticket for journey from Jodhpur to Delhi with confirmed reservation, which, after much persuasion, the applicant agreed to do by fetching him a ticket from the current reservation window. The next day, i.e. 18.12.2009, was the rest day of the applicant, and he came to the station, got the ticket purchased from the current reservation window through a lady, and handed it over to the said Vijay Soni. While he was handing over the ticket, the CBI came and arrested him on the charge of his having demanded Rs.300/- extra for fetching the ticket. A complaint was registered in this regard, on which an FIR was registered, in which it has been noted that the applicant first denied to bring the ticket, but on repeated requests by the said Vijay Soni, he told him that for bringing the ticket from reservation window and handing over to him at a desired destination, he will have to pay Rs.300/- extra to a lady.

 3. The criminal investigation in the complaint registered by the CBI as an FIR, is under investigation/enquiry/trial, and, alongside that, the impugned order of suspension has been passed by the respondents.

4. The applicant has assailed the impugned order of suspension as having been passed without proper application of mind.

According to the applicant, under Section 7 of the Prevention of Corruption Act, a public servant can come under the purview of that section only if he demands illegal gratification during his official duty. In the present case, since on the relevant date the applicant was neither acting in his official duty, nor it was under his authority or control or power to issue the reservation ticket, and since he was not concerned with the ticket window/reservation office/current reservation window, the impugned order of suspension was not maintainable and deserves to be quashed and set aside.

5. Applicant has further taken the ground that the alleged incident was not related to his duty, and even the ticket itself had not been bought from the counter by the applicant, but it was bought by a lady, and since the applicant has not taken any illegal gratification, therefore, the order of suspension deserves to be quashed and set aside. He has further taken the ground that even if it is assumed for the sake of arguments that the incident is true, even then the offence <sup>was</sup> committed by the applicant in his private/individual capacity, and not in the capacity of a Government servant, and then also it cannot be said that buying and bringing the ticket for some consideration amounts to an offence of moral turpitude.

6. Applicant has further taken the ground that the main purpose of placing a person under suspension is that he should not indulge in similar type of activities till the regular enquiry is concluded, but

this was not applicable in this case, and yet the impugned order of suspension has been passed by the respondents. He had further submitted that no departmental enquiry has yet been initiated against him, and that the order of suspension was unnecessary, as he is not in a position to influence the course of law in the criminal case registered in the instant case. In the result, he had prayed for the reliefs as already discussed above.

7. In the reply written statement filed on 07.05.2010, the respondents submitted that suspension itself is not a punishment, and the suspension orders are merely passed in administrative exigency, keeping in view certain facts, and that it cannot be said that any prejudice will be caused on account of suspension. It was further submitted that the Section 7 of Prevention of Corruption Act can also be invoked even when Central Government Employee is not actually on duty, but yet he involved in corrupt activity, which is related to either his working or his influence as a Central Government servant, which is utilized for influencing, or in any other circumstances for attaining illegal purposes.

8. It was further submitted by the respondents that under Section 5 of the Railway Servants' (Discipline & Appeal) Rules, 1968, a railway servant may be placed under suspension where a case in respect of a criminal offence is under investigation, enquiry or trial, and since in the instant case, the suspension of the applicant has been resorted to on account of registration of a criminal offence, investigation in respect of which is pending, there

was justification for his being placed under suspension, and the O.A. deserves to be dismissed. It was submitted that the applicant was trapped by the CBI authorities while acting with a criminal intent in the purchase of a ticket, and the charge against the applicant was that he demanded and accepted a bribe of Rs.300/-, which fact was considered by the competent authority before placing the applicant under suspension. It was further submitted the even when a public servant induces a person to erroneously believe that he has influence to achieve an illegal purpose, he can be subjected to investigation under Section 7 of the Prevention of Corruption Act, and the allegation against the applicant of acceptance of illegal gratification was well within the definition of moral turpitude to merit his suspension.

9. It was further submitted that suspension is not a punishment, and in case after examining all the facts the department comes to the conclusion that suspension needs to be revoked, it will be so revoked, and the applicant would then be entitled to all the benefits. It was further submitted that the suspension has been ordered in contemplation of a departmental enquiry, and the applicant has erred in rushing directly to the Tribunal, as no such departmental enquiry has yet been initiated, and the O.A. is, therefore, premature. The respondents further prayed that while admitting the original application and issuing notice on 09.04.2010, this Tribunal had stayed the order of suspension for 14 days, and the stay of suspension has been continued thereafter, but that no prejudice would be caused to the



applicant on account of continuance of his suspension, but rather prejudice would be caused to the reputation of the respondent department. They further submitted that no irreparable loss would be caused to the applicant if he is continued under suspension, and had, therefore, prayed for the stay order to be vacated.

10. The applicant filed a rejoinder on 27.07.2010. It was submitted that he had approached the respondent authorities praying for not suspending him, and later for revoking the suspension order, but of no avail, and he was left with no option except to approach this Tribunal. He also annexed a copy of the FIR/complaint as Anenxure-A/2. He also submitted that placing him under suspension shows that the respondents have pre-judged the guilt of the applicant, even though no criminal act has been committed by him, and his duty being at the Railway Station, he had no concern with the reservation office. He, therefore, again prayed for the impugned order of suspension to be quashed and set aside, and O.A. to be allowed.

11. Heard. During the course of arguments, the learned counsel for the applicant emphasized on the factual aspect that the applicant was not at all on duty in connection with the issuance of the ticket in respect of which criminal charges have been levelled against him. He also emphasized the fact that the relevant date 18.12.2009 was the rest day for the applicant, and that day he was in no way connected with the official duties, which could pave the way for him to be charged under the Prevention of Corruption Act.

12. On the other hand, the learned counsel for the respondents stated that the mere fact that the applicant had agreed to fetch and delivered a confirmed railway ticket at a cost of Rs.300/- over and above the cost of the ticket, and that <sup>too</sup> even when he was on the rest day on 18.12.2009, & he was trapped by the CBI while delivering the ticket in the premises close to the reservation counter, shows that the applicant had full intention to utilize his power and influence as an employee of the respondent Railway, and that he had merely used a lady as a front to approach the ticket counter and fetch the ticket concerned. su. su.

13. In the present proceedings, this Tribunal is not at all concerned with the criminality of the aspect of the acts of omission and commission on the part of the applicant. Whatsoever happened or transpired on 18.12.2009 is a part of the complaint on the basis of which an FIR has been registered, as a result of the CBI nabbing the applicant at the time of his handing over the ticket. This Tribunal is also not concerned with the applicability or otherwise of Section 7 of the Prevention of Corruption Act, to the instant case, which aspect will also be looked into by the appropriate Court of criminal jurisdiction, where the trial of the case is going on.

14. In the present proceedings, this Tribunal is concerned only with the question as to whether the respondents could have placed the applicant under suspension through the impugned order dated

02.02.2010, as they have done, and as to whether the applicant can claim the relief for setting aside the order of suspension.

15. As rightly submitted by the respondents in their reply written statement, suspension is not a punishment. The rules of the respondent authorities prescribed for a delinquent Government official facing criminal investigation/charges to be placed under suspension. In their wisdom and assessment of the facts of the case, the respondent authorities have come to the conclusion that in view of the registration of the complaint/FIR, and commencement of investigation of the criminal case, the applicant requires to be suspended, which they have done through the impugned order dated 02.02.2010.

16. The Hon'ble Supreme Court has held in a number of cases that the Courts should not normally interfere in the case of suspension, issuance of charge sheet, and initiation of disciplinary proceedings etc, which do not per se amount to any order adverse to the long term service interests of the Government servant concerned. The Hon'ble Apex Court had held in U.P. Rajya Krishi Utpadan Mandi Parishad vs. Sanjiv Rajan: 1994 SCC (L&S) 67 that "The High Court should not have interfered with the order of suspension passed by the authorities..... if they are exonerated, they would be entitled to all their benefits from the date of the order of suspension....." Therefore, it is settled law that Courts and Tribunals should be loath to interfere with and set aside such orders of suspension, and issuance of charge sheet for initiation of


disciplinary proceedings. The Courts and Tribunals should exercise their jurisdiction only <sup>when</sup> final orders are passed affecting the rights of hi. a Government servant adversely, which give rise to a cause of action for him to agitate the matter before the concerned Court or Tribunal.

17. In view of the clear cut finding of the Hon'ble Apex Court in U.P. Rajya Krishi Utpadan Mandi Parishad vs. Sanjiv Rajan (supra), I find that there is no justification for this Tribunal to interfere in the course adopted by the respondent authorities at present, and that the applicant is not entitled for the relief as prayed, for setting aside of the impugned order of his suspension dated 02.02.2010. In the result, the O.A. is dismissed and the interim orders are vacated. No order as to costs.



**[Sudhir Kumar]**  
**Administrative Member**

दिनांक 21-4-16 के आदेशानुसार  
मेरी उपस्थिति में दिनांक 09-6-16  
को भ्रम-I व III नष्ट किए गए ।

  
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केन्द्रीय प्रशासनिक अधिकरण  
झोझपुर न्यायपीठ, जोधपुर