

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH : PATNA

Registration No. OA-85 of 1996

Date of Decision:-

21.12.2007

P.N.Pandey, Son of Sri Pundeo Pandey,
Lower Division Clerk, Central Fuel Research
Institute, P.O. F.R.I., District Dhanbad.

... Applicant

- By Shri M.P.Dixit, Advocate

Versus

1. The Union of India through Director General,
C.S.I.R., Rafi Marg, New Delhi-110011.
2. Director, Central Fuel Research Institute,
P.O. F.R.I., District Dhanbad.
3. Sri A.K.Sinha, D.D.O., C.F.R.I., P.O. F.R.I.
District Dhanbad
4. Sri P.K.Mitra, Controller of Administration
(C.O.A.), C.F.R.I., P.O. F.R.I., District Dhanbad.
5. Sri S.K.Banerjee, the then D.D.O. at present
Administrative Officer, C.F.R.I., P.O. F.R.I.,
District Dhanbad.

... Respondents

- By Shri V.M.K.Sinha, Sr. S.C.

Coram:- Hon'ble Shri L.R.K. Prasad, Member (A)

Hon'ble Shri Lakshman Jha, Member (J)

ORDER

Hon'ble Shri Lakshman Jha, Member (J):-

1. The applicant has prayed to set aside
the order dated 12/13 December, 1994 and the

appellate order dated 2.8.96, as contained in Annexures-A-1, A/1(a), A/11 and A-19(a) respectively. Further prayer has been made to quash and set aside the order as contained in Annexures-A-24 and A-25, and for direction to the Respondents to reinstate the applicant in service with all consequential benefits in the grade of Rs. 1200-2040, of Ad hoc UDCs from the date of suspension. It is also prayed that the Respondents be directed to treat the entire period from 14.10.94 to 25.11.97, as on duty and pay salary from the date of suspension.

2. The applicant was appointed as LDC in the Central Fuel Research Institute, Dhanbad, on 17.9.85. He was posted as Cashier and was directed to hand over the charge of cashier along with cash and relevant documents to Drawing and Disbursing Officer, A.K.Sinha, by Shri P.K.Mitra, Controller of Administration, on 19.8.94 vide Annexure-A-2. Accordingly, he handed over the charge of cashier along with cash, etc. to Shri Sinha on the same day i.e. 19.8.94. Thereafter, on his request he was transferred to General Section as UDC on 22.8.94, and was released from the cash section. It is stated that after 10 days of his handing over the charge, he was issued a letter on 29.8.94 with some false allegation of misappropriation, as contained in Annexure-A-6, to save skin of the Controller of Administration and other authorities. The applicant submitted his explanation vide Annexure-A-7, but the Director, C.F.R.I., Respondent No.2, put the

the applicant under suspension vide his letter dated 13th October, 1994, and corrigendum letter dated 13th September, 1994, as at Annexures -A-1 and A-1(a) without serving any charge-sheet. It is stated that the applicant also submitted a written explanation vide Annexure-A-8, but without considering the same an F.I.R. was also lodged against him on 28.9.94. However, he surrendered before the learned C.J.M., Dhanbad and was enlarged on bail by the order of the Hon'ble High Court (Ranchi Bench) on 28.1.95, vide Annexure-A-10. The applicant filed an application to revoke the suspension period after release from Jail custody. But neither the suspension order was revoked nor the charge-sheet has been served till the date. The subsistence allowance was also ^{not} increased till 17th October, 1995. He supplied all the required documents repeatedly and also appealed to the Respondent No.2 on 5.12.95 vide Annexure-A-19 which was rejected vide order dated 2.8.96 as at Annexure-A-19(a). Hence, the GA with the prayer for relief as stated above.

3. The Respondents in their counter have stated that the applicant while handing over the charge of cash gave some hand-receipt which concerned between him and the receiver. ^{They} ~~He~~ could not be considered ~~the cash~~ and should have been accounted for. One of such hand-receipt was not even acknowledged by the Receiver as at Annexure-R-2. The applicant had been posted as Ad hoc UDC for one year only which would not confer upon him any right and he was holding the post of LDC from 10.2.94. It is stated that

4.

the applicant while handing over the charge of cash did not hand over the documents and files and some irrelevant documents were counted for cash. Therefore, he was placed under suspension with effect from 13.9.94, and a First Information Report was lodged with local Police Station. He was detained in police custody. However, the charge-sheet has not been served on him as the case has been handed over to the police and the same is going on in the Court of the Judicial Magistrate, 1st Class, Dhanbad. Therefore, the suspension cannot be revoked because of the pendency of the criminal case against him according to the instructions as provided under Rule 14 of CCS (CCA) Rules, 1965, where^{under} the prosecution should be generally in cases where offence is that of bribery, corruption and other criminal misconduct involving the loss of substantial fund and in such case the departmental action should not precede prosecution. The applicant has^{been} booked under sections 499, 467, 468, 471 and 409 and 420 of I.P.C. and his appeal before the higher authority for revoking his suspension has also been rejected. Hence, the applicant is not entitled to any relief as prayed for.

4. Heard Shri M.P.Dixit, counsel for the applicant and Shri V.M.K.Sinha, counsel for the respondents and perused the record.

5. The applicant was put under suspension on 13.9.94, vide Corrigendum as at Annexure-A-1(a). Admittedly, he has not been given any charge-memo. It is stated that a criminal case has been lodged

against the applicant which is still pending.

The applicant has been alleged to have given some tempered hand-receipts to the officer taking charge from him as Cashier. As the charge-Memo. has not been issued till date against the applicant, there is no departmental proceedings pending against him. As stated above, the criminal case is still pending. The applicant has already been allowed subsistence allowance as per the Rules.

It is not known as to whether the applicant has been charged in the Criminal case or not as yet.

In other words, what is the stage in the criminal case is not known.

6. However, there appears no rule for revocation of suspension pending criminal case relating to serious misconduct. It appears that it is ^{the} ~~the~~ case of prolonged suspension and, therefore, the Respondents Department is expected to get the criminal case against the applicant expedited.

7. Accordingly, the OA is disposed of with direction to the Respondents that in case the criminal case is not concluded within six months from the date of order, they (Respondents) shall pass appropriate order regarding revocation of suspension of the applicant. ^{in accordance with law} However, the Respondents are at liberty to pass orders in accordance with rules in the light of findings of the Criminal Court after the decision becomes available. There shall be no order as to costs.

SKS

RSK
21-12-01
(Lakshman Jha)
Member (J)

L.R.K.
21-12-01
(L.R.K. Prasad)
Member (A)