

1/14. 2. 1996

Hon'ble Mr. K. D. Saha, Member (A)

Heard the learned counsel for the applicant on the question of admission. The applicant herein Smt. Nawal Kishori Devi, EDBPM who was under put off duty, was brought back to duty as EDBPM, Pyarepur EDBO, D. Bangra S.O. with effect from 18th August, 1993 by Memo No. 385 dated 18.8.1993 (Annexure-A/1). It is submitted that by the impugned order as at Annexure-A/6 dated 2.2.1996, she has been ordered for being placed under put off duty ^{again} with immediate effect on the ground that a disciplinary proceeding is under contemplation against her. By this application, the above said order dated 2.2.1996 is ~~sought~~ to be quashed. Interim relief prayed for is to stay operation of the order as contained at Annexure A/6, as aforesaid, till final adjudication of this case.

2. This is a Division Bench matter. At present no Division Bench is available and there is no likelihood that the Division Bench will be available shortly. Against this background, and considering the submissions of the learned counsel for the applicant that any E.D. Agent cannot be placed under put off duty ~~without enquiry~~ ^{on the ground that DoA enquiry is} under the disciplinary and appeal rules, is contemplated against him, and the Respondent No. 4 has issued the impugned order in violation of the Rules and with mala fide intentions, I admit this application. Issue notices to the respondents. Written statement should be filed within four weeks. Rejoinder, if any, should be filed within a week thereafter. Requisites to be filed immediately.

requisition filed
on 14/2/96
by

3. The learned counsel for the applicant submits that the applicant has not been served with the impugned order and he is still working as EDBPM, Pyarepur EDBO. I, therefore, further direct that status quo should be maintained for a period of 14 days before which date the respondents shall file show-cause as to why the interim order shall not be made absolute. List this case on 28.2.1996 on the question of interim relief. Let a copy of this order be handed over to the learned counsel for the applicant.

(K.D.Saha) 14.2.96
Member (A)

Notice issued

on 16/2/96

be half of
MPS on

W/S on behalf of
Respondent filed on
9/2/96. (Dated 27.2.96)

2
28.2.1996

Hon'ble Mr. K.D.Saha, Member (A)

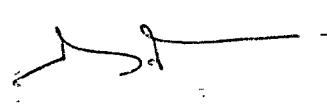
Heard learned counsel for the parties, Mr. N.P.Sinha, for the applicant and Mr. J.N.Pandey, Senior Standing Counsel for the respondents. On behalf of the respondents a written statement has been filed and the applicant has filed a rejoinder. In their reply the respondents clarify that in the memo no.F1-2/73-74 dated 2.2.1996 (Annexure-A/6), by which the applicant was put off duty, it was inadvertently mentioned "whereas a disciplinary proceeding against Smt. Nawal Kishori Devi EDBPM Pyarepur in a/c with D.Bangra is under contemplation", the actual position is that a criminal proceeding against her is pending and accordingly, the above said memorandum at Annexure-A/6 has since been amended by the

Affidavit filed
on behalf of
Applicant - 12/2/96
in file 'C'
w/c 16/2/96

respondents by corrigendum memo No.F1-2/73-74 dated 16.2.1996 to read "Whereas a criminal proceeding against Smt. Nawal Kishori Devi EDBPM Pyarepur in a/c with D.Bangra so is pending" instead of "Whereas a disciplinary proceeding against Smt. Nawal Kishori Devi EDBPM Pyarepur in a/c with D.Bangra So is under contemplation." It is further stated that in the written statement that out of the three criminal cases, one is still pending against her and she has been declared absconder in the criminal case with effect from 12.9.1985 in r/o TR No.1567/85 (GR No.937/74) State Vrs. Nawal Kishori Devi pending in the court of the Sub-Divisional Judicial Magistrate Gopalganj having reference to Baikunthpur P.S. Case No.15(10)74 U/S 409 IPC registered in connection with the fraudulent payment of Tezpur MO No.3428 dated 12.12.1973 for Rs.250/- P/T Sri Laljhari Sah. The learned counsel for the respondents submits that against this background the interim order of maintaining status quo as passed on 14.2.1996 by the Tribunal should be vacated forthwith.

2. Considering the submissions of the counsel for the parties and after going through the averments, I hereby vacate the interim order of maintaining status quo as passed on 14.2.1996.

3. As the pleadings are complete, list this case for final hearing on 20.3.1996.


(K.D.Saha)
Member (A)

3/20.3.96

Shri. M. L. Paswan, Registrar Incharge.

.....

Since the D. B. is not available at present, let this case be adjourned Sine Die till the D.B. is available.

JL
(M. L. Paswan)
Registrar I/C

PKL

4./ 24.2.99. In view of the submission made by Shri I.D. Prasad, the counsel for the applicant, list it on 12.3.99 for direction.

/CBS/

.....
(L.R.K. PRASAD)
MEMBER (A)

5/12.03.99

Shri I.D. Prasad, counsel for the applicant.

Learned counsel for the applicant states that the applicant does not want to press this case hence, he may be permitted to withdraw this case.

We have considered the matter. The case is dismissed as not pressed by the applicant.

SKJ

LJ
(Lakshman Jha)
Member (J)

NP
(L.R.K. Prasad)
Member (A)