

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 189 of 2001.

Dated this Monday, the 2nd day of April, 2001.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Hon'ble Shri S. L. Jain, Member (J).

K. K. Verma,
Financial Adviser & Chief
Accounts Officer (Traffic),
Central Railway,
Mumbai C.S.T. - 400 001. ... Applicant

(By Advocate Shri K. B. Talreja)

VERSUS

1. The General Manager,
Central Railway,
Mumbai C.S.T.,
Mumbai - 400 001.

2. The Union of India through
The Secretary,
Railway Board, Rail Bhavan,
New Delhi - 110 001. ... Respondents.

(By Advocate Shri S. C. Dhavan).

OPEN COURT ORDER

PER : Shri B. N. Bahadur, Member (A).

The matter is argued today on interim relief. Learned Counsel for both sides are heard. Admittedly ^{the} interim Ab8 relief and the main relief sought is substantially the same and hence the O.A. is considered in this background. The Applicant has also filed a rejoinder, which has also been considered, among other papers. Para No. 1412 sub para (i)

B.N.B.

and (ii) of the I.R.E.M. are the relevant paras. In fact, only the relevant sub-para was cited by respective sides, in isolation, as per their respective cases.

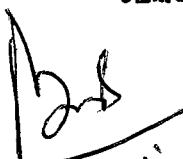
2. It would obviously be necessary to read the full provision and look at it in totality i.e. Para 1412 (i) and 1412 (ii) of the I.R.E.M. These read as under :

" Para No. 1412 (i)

Applications of Govt. servants for other posts should not be forwarded when disciplinary proceedings against them are contemplated whether for major or minor penalty. In other words, when the conduct of a Government servant is under investigation and the investigation has reached a stage at which a prima-facie case can be made out but formal charge sheet is yet to be issued, the application of such a Govt. servant should not be forwarded. Thus, where the disciplinary proceedings are actually pending, the question of forwarding application does not arise."

Para 1412 (ii)

Where the case against a Govt. servant is only at the investigation stage and no prima-facie case has been established against him, the controlling authority may forward his application without any comments with regard to the case against him except stipulating that the controlling authority reserves the right not to release the official, if necessary. If by the time the offer comes, the preliminary investigations



are over, the controlling authority should decide whether to relieve him or detain him in public interest.

{ E(D&A) 75-RG6-65 dated 19.10.1978 & 19.1.76
E (D&A) 75 RG6-39 dated 06.10.1968 }"

3. The question that is relevant before us is, whether a *prima facie* case has been made out for the relief sought. Original record in terms of case no. HPB/581/E/Court has been produced before us. We are convinced that there is some ground and reason for the Respondents' action in not forwarding the application of Applicant.

4. We have gone through the O.A., the reply filed and the papers in the original file referred to above. The facts are in a short compass and it is clear as stated above that it is not as if there is no basis for the action of the Respondents in not forwarding the application of Applicant. Hence, this O.A. can be disposed of at the stage of Admission.

5. In the consequence, the O.A. is hereby dismissed with no orders as to costs.

S.L.JAIN
(S.L. JAIN)
MEMBER (J).

B.N.BAHADUR
(B.N. BAHADUR)
MEMBER (A).