

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH.

Original Application No.27/2001.

Thursday, this the 2nd day of August, 2001.

Shri Justice Birendra Dikshit, Vice-Chairman,  
Shri M.P.Singh, Member (A).

Amar Bahadur Mishra,  
Room No.2, Mahavir Yadav Chawl,  
Nagardas Road,  
Andheri (E),  
Mumbai - 400 068.  
(By Advocate Shri G.S.Walia)

...Applicant.

v.

1. Union of India through  
General Manager,  
Central Railway,  
Headquarters Office,  
Mumbai CST,  
Mumbai - 400 001.

2. The Secretary,  
Railway Board,  
Ministry of Railways,  
Rail Bhavan,  
New Delhi.

3. Chief Workshop Manager,  
Central Railway's Parel Workshop,  
Parel,  
Mumbai - 400 012.

(By Advocate Shri S.C.Dhawan)

...Respondents.

: O R D E R (ORAL) :

Shri Justice Birendra Dikshit, Vice-Chairman.

One of the question which arise for consideration is the challenge by the applicant to Note 3 of Rule 7 of the Revised Pay Rules, 1997 praying for being declared as unconstitutional, arbitrary and bad in law and be quashed as ultra vires.

2. The relevant facts, in brief, giving rise to said question of law are that Applicant, who is a Chargeman Gr. A /

*B. Dikshit*

...2.

Junior Engineer Grade - I at Parel Workshop, Central Railway, Mumbai, was removed from service by an order dt. 16.9.1995. He was not under suspension prior to removal. He preferred an appeal against the order of removal, which was dismissed and thereafter he filed OA No.1008/1996 before this Tribunal. The OA was allowed and the removal order was set aside. The Railway Administration preferred a Writ Petition before the High Court of Judicature at Bombay (W.P. No.2319 of 1999), which is pending. According to the applicant, an order has been passed in the said writ petition permitting the applicant to be kept under deemed suspension w.e.f. the date of removal from service in accordance with Rule 5 (4) of the Railway Servants (Discipline & Appeal) Rules, 1968 and the Respondents are paying to applicant 50% of the leave salary, pursuant to the order of the Hon'ble High Court placing him under suspension.

3. Admittedly, applicant was not suspended during the pendency of disciplinary proceedings which ended in his removal from service. It is in view of interim order passed in Writ Petition No.2319/1999 that the petitioner stands suspended and is being paid subsistence. The subsistence allowance which is being paid to him is 50% of the leave salary with which he is not satisfied.

4. Heard Shri G.S.Walia, Advocate for applicant and Shri S.C.Dhawan, Advocate for respondents.


5. The question in this case relates to giving effect to the order passed by Hon'ble High Court. We are of opinion that whether the interim order of that Court has been given effect in

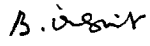
*P. G. W. R.*

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letter and spirit can be subject matter of determination before that Court alone and, therefore, the OA is not maintainable before this Tribunal. The OA is dismissed as not maintainable.

6. At this stage, the Learned Counsel for applicant pointed out that this order may not be impediment in his way for seeking relief before Hon'ble High Court. We do not find any impediment is being in his way by above order of ours in seeking relief before Hon'ble High Court.

  
(M.P. SINGH)  
MEMBER(A)

  
(BIRENDRA DIKSHIT)  
VICE-CHAIRMAN

B.