

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, MUMBAI 400001

O.A. NO. 94/97

DATED : MONDAY THE 27TH DAY OF JANUARY, 1997

CORAM : Hon. Shri M.R. Kolhatkar, Member(A)

Shri Anant Prasad Singh
Group 'B' working as S.D.E.
O/O. G.M.T. Nashik
R/o. 1/12, 'MHADA' Building
Behind Andhashala,
Nashik Road 422101 ..Applicant

V/s.

1. Union of India
through the Chief G.M. Telecom
Maharashtra Circle,
Mumbai 400001.
2. General Manager Telecom
Nashik 422002.
3. The Joint Director (CBI)
Tanna House,
Opp. Regal Cinema
Colaba, Mumbai 400039 ..Respondents

ORDER

[Per: M.R. Kolhatkar, Member(A)]

The Applicant is a Group-B Officer working as S.D.E. in the office of the Respondent No.2. He has filed this O.A. for directing Respondents Nos. 1 and 2 not to issue suspension order against the applicant unless the applicant is heard with his legal defence assitant. The applicant has sought interim relief in the same terms and to-day seeks ad-interim ex-parte relief in above terms. The applicant produced the order passed by a Single Bench this Tribunal in O.A.No.45/97 on 3.1.97 in which the Tribunal has stated that if the facts stated in paras *M* 4 and 5 of that O.A. were correct no action should

be taken by the respondent No.2 till he makes his appearance and files his reply. I asked the applicant as to what was the subsequent order passed by the Tribunal. But he was not able to state the position, instead stated that the cause of action in that case was different and the cause of action in the present case is different. But on verifying O.A.No.45/97 it is seen that the same came up before the Division Bench on 17.1.97 and on the basis of the reply filed by the Respondents interim relief was vacated and the case now stands adjourned to 21.2.97. In that case the applicant's apprehension for suspension was stated to be based on the complaint filed by him on 18.11.1996 on the subject of vigilance case against Shri R.Y.Shahpeti, Principal CTTC, Nasik.

2. Applicant, however, states that in the present O.A. the apprehension regarding suspension is based on the reply filed by the Respondents in O.A.No.45/97 which has been enclosed by the applicant as Annexure-3 to the present O.A. In this reply the respondents had stated that the CBI has received sanction for criminal prosecution against the applicant under the Prevention of Corruption Act and the CBI has also filed a chargesheet in the Court of Hon'ble Special Judge, Nasik, and all the reports of the case of the applicant have been passed on to the Chief General Manager, Maharashtra Circle, for further necessary action.

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3. The applicant further contends that he was earlier suspended on 6.7.95, but the General Manager, Telecom, Nasik, has withdrawn the order of suspension on 9.4.96. Therefore, the respondents cannot suspend him again in connection with the same cause of action.

4. From the written statement filed by the Respondents in O.A. No.45/97 it is seen that since it was likely to take some time for the CBI to obtain sanction for prosecution, the suspension order earlier issued by the General Manager, Nasik, was revoked by him. It is also stated therein that so far as the complaint made by the applicant on 18.11.96 is concerned the same is separately under process and it has nothing to do with the present case against the applicant under Prevention of Corruption Act. It is also seen that the sanction order by the Member, Telecom, was issued on 31.10.96 and the complaint was filed by the applicant shortly thereafter viz., 18.11.1996.

5. It is thus clear that the cause of action in O.A.No.45/97 and in the present O.A. is one and the same. The applicant instead of filing a rejoinder, if he so desires with reference to the reply filed by the respondents in O.A.No.45/97, has chosen to file a fresh O.A. and urged the same relief viz., restraining the respondents from suspending the applicant.

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6. The present O.A. No.94/97 is therefore dismissed at the admission stage as not disclosing any separate cause of action other than the cause of action in O.A.No.45/97. The application deserves to be dismissed for not disclosing cause of action and being an abuse of the process of court of law. The applicant is also guilty of suppressing the fact of vacation of stay in the earlier O.A.No.45/97. For the abuse of process of court of law, costs need to be levied. However, as the O.A. has been filed in person I refrain from passing any order as to costs.

7. O.A. dismissed. No order as to costs.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member(A)

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