

Smt. Nathi

: Applicant

Vs.

Union of India & Ors.

: Respondents

None present on behalf of any of the parties.

CORAM:

Hon'ble Mr.Justice D.L.Mehta, Vice Chairman.

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN.

None present on behalf of any of the parties. The applicant was convicted by the learned Judicial Magistrate under Sec.3 of the Railway Property (Un-lawful Possession) Act and he was sentenced. The applicant preferred an appeal and the sentence imposed was suspended. The applicant was called upon vide show cause notice dated 13.1.84 (Annx.A2) to show cause why the penalty of dismissal or removal from service is not imposed on him because of the conviction. The applicant file the appeal and the sentence was suspended.


2. The Dy.CME(CSW) removed the applicant from service vide order dated 14.2.84. The applicant filed an appeal to the Additional CME which was rejected. The applicant has challenged the order and prayed that the respondents be directed to pay 2/3rd DCRG and Pension or compassionate grant allowance. Regarding the pendency of the appeal, the applicant submitted that on account of famine he was out of the State and he could not file the appeal in time.

3. It will not be out of place to mention here that conviction and sentence are two independent causes. The Court only suspended the sentence imposed on the applicant and not the conviction. The conviction remains and during the pendency of the conviction the Disciplinary Authority or a competent authority can pass the order of dismissal or removal on the ground of conviction. This view has been approved by the various Courts in various decisions.


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4. As far as the present case is concerned, the applicant's conviction in this case has been maintained by the Appellate Court and only the sentence of imprisonment has been reduced till rising of the court. A person who has been committed theft of the public property is not entitled for any sympathetic consideration and the action taken by the competent authority is well within his jurisdiction.

5. In the result we do not find any force in the O.A. and the same is dismissed with no order as to costs.



(O.P. Sharma)
Member (A).



(D.L. Mehta)
Vice Chairman.