

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No. 1309/94

Date of Order : 5.8.97

BETWEEN :

Gaddam Jaya

.. Applicant.

AND

1. General Manager,  
S.E.Rly., Garden Reach,  
Calcutta.
2. Chief Project Officer,  
S.E.Rly., Sambalpur,  
Orissa.

.. Respondents.



Counsel for the Applicant

.. Mr. M.V.Durga Prasad

Counsel for the Respondents

.. Mr.N.R.Devraj

COORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMIN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admin.)

The judgement in this OA was dictated on 31.7.97. Before the judgement could be finalised and signed, Sri N.R.Devraj learned standing counsel for the respondents submitted a letter dt. 31.7.97. In that letter he had submitted that the charge has been filed in the Court of Special Judge, CBI cases at Visakhapatnam. Hence the ~~authorities~~ <sup>departmental</sup> authorities are not contemplating to issue a charge sheet at present but will consider to issue a charge sheet only after the CBI case is finalised by the said Special Court. In view of the above position the learned counsel for the respondents submitted that the judgement dictated may require modification.

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11. Though in our earlier dictation on 31.7.97 we have directed the respondents authorities to issue the departmental charge sheet immediately, it was not brought to our notice on that day while arguments were heard that CBI has <sup>already</sup> filed a charge sheet in the Court of Special Judge, CBI Cases, Visakhapatnam. This has been indicated in page-3 of the reply which was brought to our notice today. But inspite of that we feel that the order of suspension has to be viewed seriously as it was issued three years ago. Though the departmental authorities submit that they will wait for the result of the CBI case filed in the Special Court, Visakhapatnam we are of the opinion that the respondents should be ordered to come to a conclusion whether that suspension order should be continued <sup>or not</sup> still after the filing of the case by the CBI. If without detrimental to the case filed by the CBI the suspension order can be revoked and the applicant <sup>be</sup> put on duty subject to the outcome of the case filed by the CBI that point has to be considered in the light of the nature of the case, the content of the chargesheet filed by CBI in the Court of Special Judge, CBI cases, at Visakhapatnam.

12. The applicant also complains <sup>3</sup> that he was not ~~been~~ promoted to the higher grade in view of the disciplinary proceedings. In this connection we will remand the respondents to note para-4 "Six monthly review of cases" in page-61 under Rule-5 of the D&A Rules, Indian Railways 3rd Edition 1989, which stipulates the review of the suspension cases every six months and consider the suitability of the delinquent employee for promotion.

13. We also like the respondents to read the contents of the Board's order in regard to the revoking of suspension (affecting promotion) under para-3 under same D&A Rule Indian Railways at page-67 of the 3rd Edition 1989. From the above it is essential that the respondents should review the case of the applicant for revoking the suspension. It appears that the respondents have not given proper thought to those instructions.

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the suspension order. Wherever he was working, it was served on him. Hence we do not further <sup>probe</sup> go into the aspects of merits of this case.

7. An interim order has been passed in this OA on 31.10.94.

That interim order reads as below:-

"If any promotion is going to be given to the post of Chief Engineer, SAG Gr.I, it will be subject to the result in this OA and the same has to be mentioned in the order. It is needless to say that inspite of the order of suspension even if it is not illegal as alleged, the case of the applicant has to be considered for promotion by following the sealed cover procedure."

8. A reply has been filed in this OA. As stated earlier, certain details in regard to necessity for issue of the impugned suspension order and to initiate the disciplinary proceedings have been indicated. But as we are not considering the merits of this case, it is not necessary for us to go into the details in this connection.

9. The learned counsel for the applicant submits that no further action has been taken by issuing the charge sheet after the suspension order. Hence he requests for setting aside the suspension order and consider his case for further promotion.

10. Normally the Courts/Tribunal will not interfere in a disciplinary case unless there is a technical flaw in issuing the disciplinary proceedings. As stated earlier, we do not find any technical flaw in issuing the suspension order. But the respondents cannot keep quiet after issue of the suspension order. The suspension order was issued in July 1994. Already three years are over after issue of the suspension order. As it is a very long period, it is essential that the case has to be viewed seriously.

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It is time now for the respondents to consider the case of the applicant for continuing him under suspension on the basis of the present circumstances of the case.

13. In the result, the following direction is given:-

The respondents should review the suspension order dated 29.7.94 issued to the applicant in the present circumstances of the case and decide whether the applicant <sup>has</sup> ~~is~~ to be continued <sup>under</sup> ~~in~~ suspension even now. If it has been decided to revoke the suspension order it should be done forthwith and the applicant should be posted back in a suitable capacity. In case it is decided to continue him under suspension a suitable speaking order should be maintained in the file by the disciplinary authority and the applicant should be informed suitably. But even after the issue of that letter the case of the applicant should be reviewed once in three months in accordance with the Rules.

14. With the above direction the OA is disposed of with no costs.

प्रमाणित प्रति  
CERTIFIED TO BE TRUE COPY

न्यायालय अधिकारी  
COURT OFFICER  
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
हैदराबाद न्यायापीठ  
HYDERABAD BENCH