

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR. (10)

\* \* \*

Date of Decision: 19.7.96.

OA 188/94

Ganga Sahai

... Applicant

Versus

Union of India and others

... Respondents

CORAM:

HON'BLE MR. GOPALkishna, VICE CHAIRMAN

HON'BLE MR. O.P. SHARMA, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. Akhil Simlote

For the Respondents

... Mr. M.Rafiq

ORDER

PER HON'BLE MR. GOPAL KISHNA, VICE CHAIRMAN

In this application u/s 19 of the Administrative Tribunals Act, 1985, the applicant, Ganga Sahai, has sought a direction to the respondents for payment of subsistence allowance w.e.f. 6.4.81 and full wages after four months thereof, till date.

2. We have heard the learned counsel for the applicant and the learned counsel for the respondents. We have gone through the records of the case carefully.

3. The applicant has stated that he was placed under suspension by respondent No.3 w.e.f. 6.4.81. He was served with a memo of charges. His contention is that a railway servant cannot be placed under suspension under any rule as a punitive measure and a suspension order passed before the date of issuance of charge-sheet and continued beyond four months thereafter, without obtaining the approval of the concerned higher authority, is not sustainable. On the contrary, the respondents have denied that the applicant was placed under suspension and had he been under suspension he should have received subsistence allowance. The applicant himself has not been attending his duties right from 31.3.81 and in order to cover up a long period of wilful absence from duty the applicant has concocted a false case of suspension.

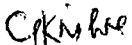
4. It is borne out by Ann.R-1 dated 7.6.94 that the applicant has been convicted by the Hon'ble Rajasthan High Court, Jaipur Bench, under Section 323 IPC and sentenced to undergo two months rigorous imprisonment and the disciplinary authority, in exercise of the powers conferred by Rule 14(1) of the Railway Servants (Discipline and Appeal) Rules, 1968, had provisionally come to the conclusion that the applicant is not a fit person to be retained in

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service and he, therefore, proposed to impose upon him a penalty of dismissal from service. There is no order of suspension on the record to establish that the applicant was in fact placed under suspension. Therefore, we cannot come to the conclusion that the applicant was under suspension and he is entitled to subsistence allowance. There is no ground for quashing the charge-sheet, at Ann.A-6, dated 1-4/5-93.

5. In the result, the QA is dismissed with no order as to costs.

  
(O.P. SHARMA)  
ADMINISTRATIVE MEMBER

  
(GOPAL PRISHNA)  
VICE CHAIRMAN

VK