

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 15.10.2014

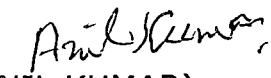
OA No. 291/00546/2014

Mr. S.K. Bhargawa & Mr. Nand Kishore, counsel for applicant.

Heard learned counsel for the applicant.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.


(DR. MURTAZA ALI)
JUDICIAL MEMBER


(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Kumawat

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00546/2014

DATE OF ORDER: 15.10.2014

**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE DR. MURTAZA ALI, JUDICIAL MEMBER**

Dinesh Kant Jha S/o Shri Bal Krishan, aged about 56 years, working as Social Security Assistant, Sub-Regional Office Employees Provident Fund Organization Udaipur R/o 55, Ashok Vihar, Malviya, Jaipur.

...Applicant

Mr. S.K. Bhargawa & Mr. Nand Kishore - counsels for applicant.

VERSUS

Regional Provident Fund Commissioner, Rajasthan Region, Employees Provident Fund Nidhi Bhawan, Jyoti Nagar, Jaipur.

...Respondent

ORDER

The applicant has filed the present Original Application being aggrieved by the Memorandum dated 05th September, 2014 (Annexure A/1) vide which the applicant has been issued a show cause notice for the imposition of the penalty of dismissal from service which shall ordinarily be a disqualification for further employment under the Central Board. This show cause notice has been issued because the applicant has been convicted and sentenced by the Special Judge, Session Court (Prevention of Corruption Act), Jodhpur vide his judgment dated 21.06.2014 pronounced in Criminal Case No. 40/2008, to undergo rigorous imprisonment for one year and to pay a fine of Rs. 1000/- and in

Anil Kumar

default of payment of fine, to further undergo rigorous imprisonment for one month for offences, punishable under Section 7 of Prevention of Corruption Act, 1988 and also to undergo rigorous imprisonment for two years and to pay a fine of Rs. 1000/- and in default of payment of fine, to further undergo imprisonment for one month for offences punishable under Section 13 (1) (d) read with Section 13 (2) of Prevention of Corruption Act, 1988. The applicant has been given an opportunity to file a representation against the penalty proposed in this memorandum.

2. Heard learned counsel for the applicant and perused the documents available on record.

3. Learned counsel for the applicant argued that Memorandum dated 05th September, 2014 (Annexure A/1) and 23rd July 2014 (Annexure A/2) be quashed and set aside and as an interim measure, the operation of the Memorandum dated 05th September, 2014 issued by the respondents may be stayed.

4. Admittedly, this O.A. has been filed against the Memorandum dated 05th September, 2014 (Annexure A/1) which is a show cause notice to the applicant and the applicant has been given an opportunity to represent against this Memorandum. This Memorandum has been issued as stated earlier on the basis that the applicant has been convicted and sentenced by the Special Judge, Session Court (Prevention of Corruption Act), Jodhpur.

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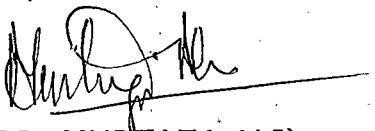
The respondents have not passed any final order. The contention of the learned counsel for the applicant is that the respondents propose to dismiss the applicant from service without any enquiry which is against the provisions of the CCS (CCA) Rules, 1965. The appeal filed by the applicant before the Hon'ble High Court against his sentence and conviction may be considered favourably. There are apparent errors in the judgment pronounced by the learned trial court. Therefore, the action of the respondents in issuing the Memorandum dated 23rd July, 2014 (Annexure A/2) and Memorandum dated 05th September, 2014 (Annexure A/1) are arbitrary and illegal.

5. We are not convinced with the arguments of the learned counsel for the applicant. The Memorandum dated 05th September, 2014 (Annexure A/1) is only a show cause notice. The applicant has been given liberty to make a representation against this Memorandum. No final order has been passed by the competent authority against the applicant. The applicant is at liberty to take all the pleas which he has taken in the present OA while filing a representation before the competent authority in pursuance to the Memorandum dated 05.09.2014 (Annexure A/1). As per Section 19 of the Administrative Tribunals Act, 1985, a person can make an application to the Tribunal for the redressal of his grievances, if he is aggrieved by an order pertaining to any matter within the jurisdiction of the Tribunal. In this case, the respondents have not passed any order but have only issued a Memorandum to show cause as to why the

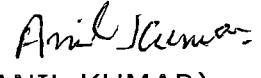
Anil Kumar.

penalty of dismissal from service which shall ordinarily be a disqualification for further employment under the Central Board be imposed on the applicant. Therefore, we are of the considered view that the present Original Application is premature. Hence, the present Original Application is dismissed at the admission stage itself being premature.

6. Since the O.A. is being decided at the admission stage, therefore, Registry is directed to send a copy of this order to the respondents.


(DR. MURTAZA ALI)

JUDICIAL MEMBER


(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Kumawat