

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of Order : 23.8.2001

OA 366/2001

Mahesh Kumar son of A.R. Sharma, Aged about 45 years, Resident of 52/102 T-25 Ayodhya Kunj, Agra at present employed on the post of Head Telephone Operator, Agra Fort, Western Railway, Kota Division, Kota.

.... Applicant.

Versus

1. Union of India through General Manager, Western Railway, Church gate, Mumbai.
2. Senior Divisional Telecom Engineer (Tele), Western Railway, Kota Division, Kota.

.... Respondents.

Mr. Shiv Kumar, Counsel for the applicant.

CORAM

Hon'ble Mr. A.K. Mishra, Member (Judicial).
Hon'ble Mr. A.P. Nagrath, Member (Administrative)

ORDER

PER HON'BLE MR. A.K. MISHRA, MEMBER (JUDICIAL)

The applicant has filed this OA with the prayer that the respondents be directed not to proceed disciplinary case till finalisation of the Criminal case.

2. We have heard the learned counsel for the applicant and have perused the whole record.

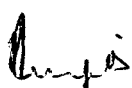
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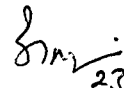
3. From the facts of the case, it appears that applicant, while he was on duty, on 29.8.99 was found under the influence of alcohol at 2200 Hours. For this act, ^{of} ~~it is~~ violation of Service Conduct rules ~~and~~ the applicant was charge-sheeted. One F.I.R. was also lodged against the applicant for committing ^{offence} ~~an~~ offence ^{under} ~~against~~ Section 145/172 of Railway Act. The applicant is being tried in the Criminal Court for the said offence and the Criminal case is said to be pending. It is the allegation of the applicant that the departmental inquiry has been re-started against the applicant without waiting for the result of the Criminal case. It is the contention of the applicant that applicant's participation in departmental inquiry will adversely affect the defence of the applicant which he may take in Criminal Court in the Criminal case. Therefore, the departmental proceedings be stayed till the finalisation of Criminal case.

4. Having considered the arguments advanced by the learned counsel for the applicant, we are of the opinion that in this case when the applicant was found under the influence of alcohol, while on duty, there may hardly be any defence which may adversely be affected by applicant's participation in the departmental proceedings. From the available record in the file, we find that earlier also, the departmental proceedings were stayed for a period of six months on account of pendency of the Criminal case. After expiry of more than six months, the ~~present~~ departmental proceedings has been re-started. Rules also provide that result of the Criminal case could be awaited for six months. The Department had awaited the result of the criminal case for six months and started inquiry only thereafter. Thus, we do not find any violation of rules in re-starting the departmental inquiry. The applicant's submission in this regard is difficult to appreciate.

In our opinion, the present OA is not maintainable as per facts stated above and ~~this~~ has to be dismissed in limine.

5. Therefore, the OA is rejected in limine.


(A.P. NAGRATH)
MEMBER (A)


23/8/2001
(A.K. MISHRA)
MEMBER (J)