

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 159 of 1999

Jabalpur, this the 19th day of January, 2004.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. G.Shanthappa, Judicial Member

D.N. Dubey  
S/o late Shri L.P. Dubey  
aged about 55 years,  
resident of 30, Shakti Nagar,  
Gupteshwar,  
Jabalpur(M.P.)

APPLICANT

(By Advocate - Shri S. Paul)

VERSUS

1. Union of India  
through its Secretary,  
Department of Telecommunication,  
Government of India,  
Sanchar Bhavan,  
New Delhi - 110001.

2. Deputy General Manager(Administration)  
Office of General Manager, Telegraph  
Department, C.T.O. Compound,  
Jabalpur(M.P.)

RESPONDENTS

(By Advocate - Shri B.da.Silva)

O R D E R (ORAL)

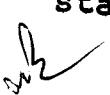
By M.P. Singh, Vice Chairman :

The applicant has filed this OA seeking a direction to quash the order dated 14.9.1998(Annexure-A-1) and to reinstate him with full back wages with all consequential benefits.

2. The applicant while working as Telegraphist/ Telegraph Master(O) in the Telegraph Office,Prem Nagar, Jabalpur, was issued a charge-sheet on 21.8.1991 (Annexure-A-2) under Rule 14 of the Central Civil Services (Classification,Control & Appeal)Rules,1965 for committing gross misconduct during the period 1.1.1980 to 31.12.1990 inasmuch as he has failed to intimate or obtain prior permission of the department as regards his purchase of plot of land etc. The applicant had admitted the charge during the course of enquiry.The enquiry officer submitted his report on 20.6.1996 proving the charge against the

applicant. The disciplinary authority on receipt of the enquiry report imposed the ~~penalty &~~ reduction of pay from Rs.2000/- to Rs.1850/- in the time scale of pay for a period of three years with effect from 16.12.1996. Simultaneously action was taken against the applicant under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act,1988 and a charge sheet was filed against the applicant in the Court of Additional Sessions Judge, Jabalpur and registered as special case no.12/1993. In trial, the applicant was convicted by an order dated 15.3.1997 and was sentenced to suffer rigorous imprisonment for 5 years and to pay a fine of Rs.2 lakhs. As a result of the conviction, the applicant was issued a notice to show cause under Rule 19 of the CCS(CCA)Rules,1965, against which the applicant has approached this Tribunal in O.A.500 of 1998, and the said OA was dismissed vide order dated 2.9.1998 holding that there was no question of staying the show cause notice issued by the department and the applicant should file his reply. Accordingly the applicant submitted his explanation and the same was considered by the respondents. Thereafter, the respondents have passed the order/dated 14.9.1998 which has been challenged in this OA.

3. Heard the learned counsel for the parties and perused the pleadings carefully.
4. The learned counsel for the applicant has contended that in this case the applicant has been earlier punished by reduction of his pay on the basis of the charge sheet issued on 21.8.1991 and now for the same set of facts and charges, he has been dismissed from service by the respondents. This is a double jeopardy and the applicant cannot be punished twice. The learned counsel has further contended that vide order dated 20.3.1997 in Criminal Appeal No.662/1997 the Hon'ble M.P.High Court has directed that if the applicant deposits Rs.one lakh including any fine already deposited, the sentence of fine shall remain stayed. It was also directed that sentence of imprisonment



shall also remain suspended during the pendency of the said criminal appeal on his furnishing a personal bond of Rs.20,000/- The learned counsel, therefore, has urged that since the sentence & fine have been stayed by the Hon'ble High Court, the order of dismissal passed by the respondents should be quashed.

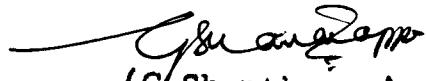
5. We find that the applicant was earlier charge-sheeted and punished vide order dated 12.12.96 (Annexure-A-3) on account of violation of the provisions of Rule 3(1)(i) & (iii) of CCS(Conduct)Rules,1964 for not obtaining the prior permission of the Department as regards his purchase of plot of land etc., whereas the present impugned order of dismissal from service has been passed after issuing the applicant a show cause notice under Rule 19 of the CCS(CCA)Rules,1965 because of his conviction and sentence in special case no.12/1993 which was registered against the applicant under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 for having possession of disproportionate assets in the form of agricultural lands etc. This Tribunal in the earlier OA filed by the applicant i.e. OA No.500/1998 has already considered the question as to whether the department was competent to proceed with further departmental action after his conviction in the criminal case, and the Tribunal has held that there was no question of staying the show cause notice issued by the department under Rule 19 of the CCS(CCA)Rules, relying on the decision of the Hon'ble Supreme Court in the case of Union of India Vs. Shri Ramesh Kumar, 1998 (1)SLJ 241. Their Lordships in the case of Shri Ramesh Kumar (supra) has held as under -

"5. A bare reading of Rule 19 shows that the Disciplinary Authority is empowered to take action against a Govt. servant on the ground of misconduct which has led to his conviction on a criminal charge. The rules, however, do not provide that on suspension of execution of sentence by

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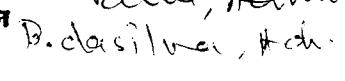
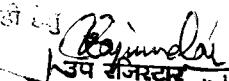
the appellate court the order of dismissal based on conviction stands obliterated and dismissed Govt. servant has to be treated under suspension, till disposal of appeal by the Appellate Court.  
The rules also do not provide the Disciplinary Authority to await disposal of the appeal by the Appellate Court filed by a Government servant for taking action against him on the ground of misconduct which has led to his conviction by a competent court of law. Having regard to the provisions of the rules, the order dismissing the respondent from service on the ground of misconduct leading to his conviction by a competent court of law has not lost its string merely because a criminal appeal was filed by the respondents against his conviction and the Appellate Court has suspended the execution of sentence and enlarged the respondent on bail.

6. In view of the foregoing we do not find any merits in the contentions raised by the applicant. The present case is fully covered by the aforesaid decision of the Hon'ble Supreme Court. Accordingly, this OA is dismissed however, without any order as to costs.

  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman.

rkv.

पूर्णांकन सं. ओ/न्या..... नवलपुर, दि.....  
प्रमिलिनि.....  
(1) सदिक, ओ..... नवलपुर  
(2) अमोद, ओ..... नवलपुर  
(3) प्रत्यक्षी, ओ..... नवलपुर  
(4) देवराम, ओ..... नवलपुर  
सूचना एवं आकर्षक कार्यालये द्वारा  
  
S. Paul, Admire  
  
D. dasilva, Admire  
  
Rajendra  
उप रजिस्टर 3/2/04

