

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01550/2018

DATED THIS THE 12th DAY OF OCTOBER, 2018

HON'BLE SHRI DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI CV.SANKAR MEMBER (A)

Sri.P.V.Reddy, 51 years,
S/o Late P.Venkata Reddy,
Occn: Deputy Chief Engineer/Track Machine ,
South Western Railways,
Hubballi: 580 020.
(Under orders of dismissal from service)
Now residing at No.542,
3rd Floor, 'Nilagiri Building',
9th Cross, MCECHS Layout,
Ramakrishna Hegde Nagar,
Bengaluru: 560 077.

....Applicant

(By Shri PA.Kulkarni..... Advocate)

vs.

1.The Secretary,
Railway Board,
Ministry of Railways,
Rail Bhavan,
New Delhi: 110 001.

2.Director/E (O)I,
Railway Board,
Rail Bhavan,
New Delhi: 110 001.

3.General Manager
South Western Railway,
Gadag Road,
Hubballi: 580 023.
for and on behalf of Union of India.

4.Principal Chief Personnel Officer,
South Western Railway Headquarters,
Rail Soudha,

Hubballi: 580 020.

...Respondents.

(By Shri N.Amaresh... Sr.Panel Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

1. Heard. Apparently under the P.C. Act, the CBI Court, had convicted the applicant. Therefore, under Rule 19 even without the UPSC advice on that aspect it is incumbent upon the respondents to dismiss the applicant from service.

2. Applicant relies on the decision of UOI & others Vs. SK.Kapoor reported in (2011) 4 SCC 589 wherein the Hon'ble Apex Court held that if the Disciplinary authority does not rely on UPSC Report then it need not be supplied to the employee concerned. Apparently, in this case on conviction by a Criminal Trial Court it is incumbent upon the Disciplinary authority to dismiss the applicant without consulting anybody and therefore, the UPSC report which is actually against the applicant is only just a formality undergone and very fact that UPSC report copy and the dismissal order was granted together to the applicant will not increase or enhance the cause purportedly raised by the applicant. Needless to say if he secures an acquittal, then he will be reinstated in service. But, for the time being nothing wrong can be attributed to the order passed by the respondents. OA dismissed. No order as to costs.

3. At this point of time Shri PA.Kulkarni, learned counsel for the applicant raises another issue. The dismissal order at annexure-A-4 is based on the UPSC advice. It may be so. Probably we will now conclude the Disciplinary authority was not fully conversant with the law in this regard. The Disciplinary authority is a fully competent authority who is independent of either the UPSC or the CVC. He does not have to rely upon any of the inputs. But, in this case the only cause on which anybody can rely upon is conviction order passed by a Criminal Trial Court which is an external input over which nobody else has any control. Therefore, whichever way annexure-A-4 is fashioned the fact remains that only for the sake of conviction and granting respect to the order of conviction that action has been taken against the applicant of dismissing him under Rule 19. It also goes to say that if an Appellate Court reverses this order and acquits him he will be eligible for reinstatement. That being so reliance of the Disciplinary authority on annexure-A-4 on the UPSC report is neither here nor there. It is not relevant or germane to the issue at all. The only input necessary under Rule 19 is conviction by a Criminal Trial Court.

4. At this point of time Shri PA.Kulkarni points out that in Railways Act Rule 19 may not have effective application as it is under Rule 14. Since it is analogous to the issue we need not explain it any more further. The crux of the issue is conviction under the Criminal Trial Court. On that it is incumbent on the Disciplinary authority to

dismiss him. There is no independence to the Disciplinary authority to do anything else in this regard. That being so nothing wrong in the order passed. OA dismissed. No order as to costs.

5. At this point of time Shri PA.Kulkarni raises one more issue. Under Rule 14 (1) it is mandatory to seek the views and representation of the concerned employee i.e., because if in the interregnum between the conviction order and the dismissal order if an Appellate Court had over turned the decision and granted acquittal or if an Appellate Court had decided that the conviction itself should be stayed then the scenario is different. Even if the conviction is stayed then the effect of the conviction order is not apparent i.e., the reason why this specific input has been made in Rule 14 (1). Therefore, no merit in the OA. Dismissed. No order as to costs.

(CV.SANKAR)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

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Annexures referred to by the applicant in OA No.1550/2018

Annexure A1: Copy of the suspension of the sentence order dated 13.12.2014 passed in Criminal Appeal 335/2014 by the Madurai Bench of Madras High Court.

Annexure A2: Copy of Govt. of India Min. of Railways Memo. dated 30.03.2016 issued to the applicant

Annexure A3: Copy of the representation dated 25.4.2017 submitted by the applicant

Annexure A4: Copy of the impugned order dated 20.8.2018

Annexure A5: Copy of UPSC advice dated 02.02.2018

Annexure A6: Copy of Apex Court's ruling in UOI versus S.K.Kapoor's case reported in (2011) 4 SCC 589

Annexure A7: Copy of DOPT OM dated 06.01.2014

Annexure A8: Copy of DOPT OM dated 31.10.2014

Annexure A9: Copy of DOPT OM dated 19.11.2014

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