

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3742 of 2016

- Satish Chandra Tiwari S/o Shri Awadh Narayan Tiwari, Aged about 50 Years, Senior Section Engineer/ P- Way, S.E.C. Railway, Durg, District Durg (Chhattisgarh) 492001

---- Petitioner

Versus

1. Union of India Through: The General Manager, S.E.C. Railway, Bilaspur Zone, Headquarters' Office, Bilaspur 495004 (Chhattisgarh)
2. The Sr. Divisional Engineer (East), O/o Sr. Divisional Engineer (Coordination), S.E.C. Railway, Nagpur Division, D R M's Office, Nagpur, 440001 (Maharashtra)

---- Respondents

For Petitioner	:	Shri Shailendra Kumar Bajpai, Advocate.
For the Respondents	:	Shri Abhishek Sinha & Shri Ghanshyam Patel, Advocates

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Justice Sanjay K. Agrawal

ORDER ON BOARD

16/08/2016

1. With consent of the both parties, the matters is heard and disposed of at the stage of admission itself.
2. The only issue involved in this case is whether the petitioner should be granted interim protection till the decision of the main case by the Central Administrative Tribunal (for short 'the CAT') or not.
3. From the record, we find that the petitioner was convicted in a criminal case for having committed an offence punishable under Section 13 (1) (d) of the Prevention of Corruption Act (for short 'the Act'). The conviction is under challenge before the Nagpur Bench of Bombay

High Court and in the said case the order passed is only that the substantive sentence imposed upon the petitioner/appellant has been stayed but the conviction has not been stayed. From the averments made in para 8 of the Original Application, we find that for this very incident, a memorandum of charge was issued against the petitioner and disciplinary proceedings were initiated against him sometime in the year 2012 and those proceedings are almost at the final stage because from a perusal of Annexure A/4 of the Original Application, it is clear that the Presenting Officer has filed a detailed brief which includes the statements of the witnesses etc. Therefore, the matter only has to be argued.

4. In the meantime, on 14-07-2016 Annexure A/6 to the Original Application was issued. This is a notice issued under Rule 14 (1) of the Railway Servants (Discipline and Appeal) Rules, 1968 proposing to impose penalty of dismissal from service upon the petitioner on the ground that the petitioner has been convicted in the Criminal Case.
5. The petitioner herein filed an original application before the CAT, Jabalpur Bench, Jabalpur. In the said application, he also filed an application for grant of interim relief praying that till original application is disposed of, he may not be dismissed from service. The learned CAT refused to grant him such an interim relief vide order dated 01-08-2016 which is under challenge before this Court. Since the disciplinary proceedings arising out of the first

memo of the year 2012 are already at the final stage, we think it would be appropriate that the petitioner is deemed to be under suspension and to this extent the order of the CAT refusing to grant interim relief to the petitioner, is set aside and the petitioner shall be deemed to be under suspension till decision of the original application by the CAT. We also make it clear that pendency of the proceedings before the CAT will not be a bar for the Railways to take action in the regular departmental proceedings which were initiated in the year 2012 which are at the final stage.

6. In view of the above, the order dated 01-08-2016 of the CAT, Jabalpur Bench is set aside. The petition is disposed of in the above terms.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay K. Agrawal)
JUDGE