

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1013 OF 2024

Kumar Pillai,
S/o Kumar Bhoominathan Pillai ... Petitioner
V/s.
Union of India (Through) The General
Manager, Central Railway & Ors. ... Respondents

Dr. Abhinav Chandrachud i/by Samir Singh for the Petitioner.

Mr. Suresh Kumar for the Respondents.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : 30th JANUARY 2024

P.C. :

Rule. Rule made returnable forthwith.

2. With the consent of the learned counsel for parties,
the present Writ Petition is heard and decided finally at the
admission stage itself.

3. By instituting proceedings of this Petition under Article 226 of the Constitution of India, the Petitioner, who is posted on the post of Head Goods Clerk with the Central Railways, has assailed the validity of the order dated 02nd August 2023 passed by the Mumbai Bench of Central Administrative Tribunal whereby the Original Application filed by him was dismissed with a further observation that the Respondent shall provide a copy of CCTV footage to the Petitioner, if the same was available with the Department.

4. It has been contended by the learned Counsel for the Petitioner that in relation to some incident, an First Information Report ("*FIR*") was lodged against the Petitioner and after conclusion of investigation, a chargesheet has been filed against the Petitioner. It is further stated that on the basis of the allegations in the FIR which resulted in filing of chargesheet against the Petitioner, departmental proceedings have also been instituted on the same set of charges. It is, thus, the submission of the Petitioner that since the departmental proceedings have been instituted against the Petitioner on the same set of

charges on which the FIR was lodged, it would have been more appropriate for the Department to have stayed the proceedings of the departmental inquiry till conclusion of the trial of the criminal case in view of the law laid down by the Hon'ble Supreme Court in the case of ***State of Rajasthan Vs. B. K. Meena & Others***¹ and ***Stanzen Toyotetsu India Private Limited Vs. Girish V. and Others***².

5. The Petitioner, accordingly, moved an Application for staying the departmental proceedings, however the said Application was rejected. Simultaneous with making of the Application for staying the departmental proceedings, the Petitioner also requested for providing him with a copy of the CCTV footage in relation to the incident which forms the basis of departmental proceedings. Both the prayers were rejected by the competent authority of Railways, which led the Petitioner to institute the Original Application No.463 of 2021. The prayer clause embodied in the said Original Application is quoted hereunder :-

1 (1996) 6 SCC 417

2 (2014) 3 SCC 636

"8. Reliefs Sought :-

The Applicant therefore prays that this Hon'ble Tribunal be pleased :

8.1 To call for the records and proceedings of the case and quash and set aside the impugned order, No.BB.C.DAR.Major/2020/12 dated 01.06.2021.

8.2 To stay the Departmental Disciplinary proceedings initiated against the applicant by charge memorandum No.BB.C.DAR.MAJOR.2020.14 dated 09.09.2020 (Annexure:A4) pending finalization of the criminal proceedings in the Railway Magistrate's Court at CSMT, Mumbai in Police cases (w) No.3501520/2019 arising out of FIR No.3557 dated 23.09.2019 of Kurla Railway Police Station till the criminal trial is concluded.

8.3 To order the cost of this O.A. in favour of the Applicants.

8.4 Any other Order be passed in the interest of justice in favour of the Applicant as deemed fit and proper under the given facts and circumstances."

6. It is the submission of the learned Counsel for the Petitioner that while filing the Original Application, no relief was sought by the Petitioner in respect of rejection of his prayer for being provided a copy of the CCTV footage.

7. Further submission on behalf of the Petitioner is that while the matter was argued before the Central Administrative Tribunal learned counsel confined his prayer to provide the copy of the CCTV footage, however, without there being any such instructions to him by the Petitioner. Thus, the prayer pressed for before the Central Administrative Tribunal in relation to providing the CCTV footage was without any such instructions.

8. In these circumstances, it has been prayed that the Writ Petition be allowed and the order of the Central Administrative Tribunal be quashed and set aside.

9. Learned Counsel representing the Respondents has however submitted that such a prayer can be entertained by the Central Administrative Tribunal as it will be difficult for this Court to ascertain as to whether instructions were clearly given by the Petitioner to the learned Counsel, who appeared on his behalf before the Central Administrative Tribunal.

10. Having regard to the facts and circumstances of the case and without making any observation on the merit of the submissions of the respective parties sofar as the order under challenge before us is concerned, we permit the Petitioner to move an appropriate Application seeking recall/review of the order dated 02nd August 2023 passed by the Central Administrative Tribunal in the Original Application No.463 of 2021 setting out the grounds for recall of the said order, within ten days from today. Once any such Application is preferred by the Petitioner before the Central Administrative Tribunal, the same shall be considered and decided in accordance with law, within next four weeks.

11. We further direct that before preferring the Application for recall/review under this order before the Central Administrative Tribunal, the Petitioner shall serve the Respondents in advance. We also direct that till conclusion of the proceedings before the Central Administrative Tribunal which may be instituted under this order, the departmental proceedings against the Petitioner shall not proceed further. This

direction will, however, abide by the final outcome of the Application to be preferred by the Petitioner before the Tribunal.

12. Accordingly the Writ Petition is disposed of in the aforesaid terms. There shall be no order as to costs.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)