

(2020) 11 CAT CK 0096

In the Central Administrative Tribunal

Case No : Original Application No. 1880 Of 2020

A.V. Mittal

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 24-11-2020

Acts Referred:

Prevention Of Corruption Act, 1988 — Section 13(1)(e), 13(2)
Railway Servants (Discipline & Appeal) Rules, 1968 — Rule 14(i)
Railway Service (Discipline & Appeal) Rules, 1968 — Rule 14(1)
Constitution Of India, 1950 — Article 311(2)(b)

Citation : (2020) 11 CAT CK 0096

Hon'ble Judges : L. Narasimha Reddy, J; A.K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Shreya

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant was working as Deputy Chief Engineer (TO) in the Northern Railway Headquarters Office, Baroda House, New Delhi. The CBI

instituted proceedings against him under Rule 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988 in RC No.BA1/2003/A0041. The concerned

Criminal Court convicted the applicant, through judgment dated 28.12.2012 and sentenced him to undergo rigorous imprisonment for three years and to

pay a fine of Rs.75,000/- The applicant states that he filed an Appeal before the Hon'ble High Court feeling aggrieved by the judgment of the

Trial Court.

2. The President, the appointing authority, issued a notice to the applicant in exercise of the power under Rule 14(i) of the Railway Servants

(Discipline &Appeal) Rules, 1968, proposing to impose a penalty of dismissal from service in view of the conviction in the criminal case. The

applicant, however, did not submit any representation. An order was passed on 03.01.2019 dismissing the applicant from service. This OA is filed

challenging the order of dismissal.

3. The applicant, who filed the case in person, submits that the charge in the criminal case is very vague and there was absolutely no basis for the

conviction. It is also pleaded that on the same allegations, the departmental proceedings were initiated and punishment of different kind was also

imposed and that the punishment under the impugned order amounts to double jeopardy.

4. Reliance is placed upon the judgment of the Honâ??ble Supreme Court in SHANKER DASS VS. UNION OF INDIA AND ANR.AIR 1985 SC

772.

5. We heard the applicant, who argued the matter in person and M s. Shreya for Shri Krishna Kant Sharma, learned counsel for the respondents, at

length, through video conferencing.

6. It is not in dispute that the applicant was convicted in a criminal case for offences punishable under Rule 13(2) r/w 13(1)(e) of Prevention of

Corruption Act, 1988 in RC No.B A1/2003/A0041. Article 31 1(2)(b) of the Constitution provides for dismissal of a civil servant in the event of

conviction in a criminal case. Correspondingly Rule 14(1) of Railway Service (Discipline &Appeal) Rules 1968 also provides for that. Once a civil

servant is convicted by a court, for the offences of moral turpitude, the employer has no option but to dismiss the employee.

7. It is true that the respondents have initiated disciplinary proceedings against the applicant and that ended in imposition of penalty of lesser

magnitude. The order passed in exercise of power under Article 311(2)(b) of the Constitution of India or the corresponding provision in the CCS

(Conduct) Rules, 1964 cannot be treated as double jeopardy. Both are different aspects altogether, but arising out of same circumstances. Obviously

for this reason, the courts insist that, wherever an employee is subjected to prosecution in a criminal case, disciplinary proceedings initiated on the

same allegations must await the outcome of the criminal proceedings.

8. Though the applicant has strongly pleaded that the charges in the criminal

case were vague, the Tribunal has no jurisdiction to deal with the same. It

is for the Honâ??ble High Court, where the Appeal is pending, to adjudicate upon the judgment of the Trial Court.

9. In Shanker Dass (supra), the employee therein was no doubt convicted by the Criminal Court but was released under the Probation of Offenders

Act, 19 58. With that, the impact of the conviction stands wiped away. Taking that aspect into account, the Honâ??ble Supreme Court granted relief.

In the instant case, since the applicant did not have such a benefit, he as to await the outcome of the Appeal preferred by him before the Honâ??ble

High Court against the judgment of the Trial Court.

10. We do not find any merit in the OA. It is accordingly dismissed. It shall be open to the applicant to pursue the remedies, depending upon the

outcome of the Appeal filed by him against the judgment of the Trial Court.

There shall be no order as to costs.