

Central Administrative Tribunal
Principal Bench

O.A. No.1225/2002
with
O.A. No. 1224/2002

New Delhi this the 3rd day of October, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri V.K. Mahtola, Member (A)

OA No.1225/2002

Shri Ravinder Kumar
S/o Shri Dhani Ram,
Lower Division Clerk,
Under Directorate of Employment
2, Battery Lane,
Delhi.

-Applicant

Versus

Lt. Governor through:

1. The Chief Secretary,
Government of N.C.T.,
Delhi-110 002.
2. The Director Employment,
Directorate of Employment,
2, Battery Lane,
Delhi-110 054.

-Respondents

OA No.1224/2002

Shri Joseph Topno,
S/o Shri Junathan Topno,
Lower Division Clerk,
Under Directorate of Employment
2, Battery Lane,
Delhi.

-Applicant

Versus

Lt. Governor through:

1. The Chief Secretary,
Government of N.C.T.,
Delhi-110 002.
2. The Director Employment,
Directorate of Employment,
2, Battery Lane,
Delhi-110 054.

-Respondents

(By Advocate: Shri B.S. Mainee, for the applicant
Shri Ajesh Luthra, for the respondents)

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ORDER (Oral)

Hon'ble Shri Justice V.S. Aggarwal, Chairman

Applicant, Ravinder Kumar, is a Lower Division Clerk under the Directorate of Employment.

2. By virtue of the present application, he seeks a direction to consider the case of the applicant and revoke the suspension of the applicant with immediate effect.

3. Some of the relevant facts can be delineated. The applicant had joined service as a Lower Division Clerk on 11.3.1991. He was arrested vide FIR No. 280 dated 8.5.1995 on 9.5.1995. Since he remained in police custody for more than 48 hours and order was passed under sub-rule (2) of Rule 10 of the CCS (CCA) Rules, 1965 suspending him from service, admittedly, a report under Section 173 Code of Criminal Procedure had been filed against the applicant, which is pending trial before the learned Metropolitan Magistrate, Patiala House, New Delhi.

4. Learned counsel for the applicant contends that charges have not been framed and respondents have failed to review the case of the applicant for revoking the suspension of the applicant.

5. Admittedly, the subsistence allowance of the applicant has since been enhanced from 50% to 75%.

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6. Keeping in view the above said fact, two question arises:

a) The effect of deemed suspension order that was passed:

b) Whether the applicant has a right to be reinstated and for consideration of his representation in this regard.

So far as the first question is concerned, it cannot be termed to be any ^{dispute} ~~action~~ keeping in view of the decision of the Hon'ble Supreme Court in the case of Union of India Vs. Rajiv Kumar in Civil Appeal No.5007 of 2003 decided on 12.7.2003. Earlier, in the case of Rajiv Kumar Vs. Union of India, the Delhi High Court in Civil Writ Petition No.4746/2001 decided on 31.5.2002 had taken a view that after the order of deemed suspension, fresh application of mind is required and, therefore, fresh order if necessary suspending the concerned officer should be passed. The said view had been set aside by the Hon'ble Supreme Court in the case referred to above. Therefore, the applicant cannot be permitted to agitate the said fact.

Concerning the second question, admittedly the applicant had submitted a representation seeking revocation of his suspension order in the face of the long time that has elapsed since he was suspended.

7. When the representation has not been decided, we do not express ourselves in this regard but dispose of the said representation dated 6.11.2001 directing the Directorate of Employment to consider

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the said representation and pass a speaking order in this regard preferably within two months on the receipt of the said copy and communicated to the applicant. We make it clear that if he is not competent to do so he will forward to the appropriate authority.

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Learned counsel for the applicant stated that he would submit a representation to the competent authority and subject to that does not press the present application. Allowed as prayed.

OA is dismissed as withdrawn.



(V.K. Majotra)
Member (A)



(V.S. Aggarwal)
Chairman

cc.