

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1100/2002
MA 879/2002

this the day of 12th December, 2002

Hon'ble Sh.Shanker Raju, Member(J)

1. M.S.Meena,
S/o Sh. Ram Shai,
R/o BH-92, West Shalimar Marg,
Delhi-5.
2. B.S.Tolia
S/o Sh. Inter Singh
R/o Staff Quarter No.1,
Type IV,
Govt. Lady Noyce Sr.Sec. School for deaf and dumb
Delhi Gate, Delhi.Applicants.
(By Advocate: Shri Yogesh Sharma)

Versus

1. N.C.T of Delhi through the Chief Secretary,
Delhi New Sectt. Players Building,
New Delhi.
2. The Chief Secretary,
Govt. of NCT of Delhi,
Delhi New Sectt. Players Building,
New Delhi.
3. The Director,
Dept. of Social Welfare,
Govt. of NCT, K.G.Marg,
New DelhiRespondents
(By Advocate: Shri Vimal Rathi proxy counsel of
Shri Rajan Sharma)

ORDER(ORAL)

By Hon'ble Sh.Shanker Raju, Member(J)

In this OA, applicants impugn their continued suspension resorted to under Rule 10 of the CCS (CCA) Rules, 1965 by an order dated 27.6.2000.

2. It is contended that after a PIL was filed before High Court in CWP No.3118/2000 regarding the issue of death of certain beggars of Beggars Home, respondents through an affidavit stated that on an enquiry by SDM, Narela and on the basis of his report, applicants have been placed under suspension and

disciplinary proceedings have been commenced. Directions have been issued to the respondents to complete the action in terms of making the Homes more habitable. Though it is contended that respondents have filed a written affidavit as to initiation of disciplinary proceedings whereas the disciplinary proceedings were initiated through a memorandum dated 29.8.2002 under Rule 14 of the Rules ibid.

3. Applicants contended that despite their representation to the appellate authority, i.e., Chief Secretary, for revocation of suspension, no orders have been passed. Shri Yogesh Sharma appearing on behalf of the applicants stated that having regard to the misconduct of the applicants as forthcoming from the facts and findings of the enquiry, he has not been found instrumental for the deaths taken place at Beggars Home and as the material has already been taken into consideration and there is no possibility of applicant tampering with the evidence or winning over the witness the continued suspension is unjustified.

4. On the other hand, strongly rebutting the contentions of the applicants, learned proxy counsel of respondents, Shri Vimal Rathi, states that the applicants' suspension has been reviewed and their subsistence allowance was enhanced on 26.6.2001 to 75% and as the chargesheet has already been served upon the applicants on 29.8.2002, their case for revocation of suspension will be reviewed in due course.

5. It is lastly contended that applicants have not availed their remedies of appeal provided under Rule 23(1) of the Rules *ibid*.

6. I have considered the rival contentions of the parties and perused the record. As per Sub-Rule 5 of Rule 10 of the Rules *ibid*, it is incumbent upon the appropriate authority to record reasons for continued suspension in the event the disciplinary proceedings are delayed. The stand taken by the respondents is that they have reviewed the suspension and accordingly the subsistence allowance has been enhanced to 75%. The plea that the disciplinary proceedings have been initiated and the review would be done in due course, cannot be countenanced. On a review, the appellate authority under Rule 23(1) of the Rules *ibid* which the applicants have exhausted by filing representations to the Chief Secretary, who is the appellate authority to the Director, the contention of the respondents that the applicants have not availed their remedies cannot be sustained. Appellate authority has not passed any order on the representation of the applicants in the light of the instructions issued by the Government of India from time to time mandating the review of the suspension and recording of reasons. A bare statement that as the disciplinary proceedings have been initiated suspension would be reviewed in due course shows callousness on the part of the respondents.

7. The suspension is not to be resorted as a measure of punishment. It is with a view to ensure that the employee does not misuse his official position or tamper with the evidence or threaten the witness in a disciplinary proceedings or criminal proceedings. Although suspension on account of involvement in a case of grave misconduct is to be continued. However, in the instant case as there are no prospects of the applicants tampering with the evidence or winning over the witness as from the report of investigation, they are not found instrumental in deaths of inmates of Beggars Home. Moreover, it is not in public interest to keep a Government Servant in suspension indefinitely without any justified reasons which the respondents have not spelt out. In the light of forgoing reasons, OA is disposed of with the direction to the respondents to review the suspension of the applicants and consider their request for revocation of suspension by passing a detailed and speaking order in the light of observation made above within a period of two months from the date of receipt of a copy of this order. No costs.

S. Raju

(Shanker Raju)
Member(J)

/kd/