

Central Administrative Tribunal  
Principal Bench, New Delhi

O.A.No.2307/2001

Monday, this the 26th November,2001

Hon'ble Shri S.A.T. Rizvi, Member (Admn)

B.P. Mahaur  
Asstt. Settlement Commissioner  
(Under Suspension)  
Land and Building Department  
Govt. of N.C.T. of Delhi  
R/O C-7/202, Sector-8, Rohini  
New Delhi-83.

..Applicant  
(By Advocate: Shri T.R.Kakkar)

Versus

Lt. Governor, Delhi  
Through: Chief Secy.  
Govt. of NCT of Delhi  
Delhi Secretariat,  
I.P. Estate  
New Delhi-2

..Respondent  
(By Advocate: Mrs. Meera Chhibber)

O R D E R (ORAL)

Heard the learned counsel on either side.

2. The applicant while posted as Assistant Settlement Commissioner in the Land and Building Department, Govt. of NCT of Delhi, has been placed under suspension vide order dated 24.8.2001 (Annexure-I). The same has been impugned on the ground, inter alia, that suspension was unwarranted as the applicant was in any case going to retire within the next three months.

3. The learned counsel appearing on behalf of the applicant further submits that suspension should not be made in a routine and in a perfunctory manner and the power to suspend must be exercised sparingly and for valid and cogent reasons alone. The alternative of transferring him out the applicant should also be explored before the officer concerned is placed under suspension. According to him, the impugned order is bad for these reasons as well.

*Dr*

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4. I have considered the submissions made by the learned counsel on either side and find that Rule 10 (1) of the CCS (CCA) Rules clearly provides that an officer can be suspended in the discretion of the appointing authority whenever disciplinary proceedings are contemplated against him. Rule 23 (1) of the same rules provides that an order of suspension can be appealed against. The order of suspension passed in the present case cannot be appealed against, according to the learned counsel, for the reason that the same has been passed on behalf of the Lt. Governor. That may be so, but in such an event, the applicant is always free to seek a revision or a review of the orders passed. The relevant provisions are available in Rules 29 & 29~~29~~ of the CCS (CCA) Rules. The applicant obviously had an option before him and a patent remedy against the impugned order of suspension. He could, by all means, seek a revision or a review of the order of suspension. He has not done so and, to this extent, the learned counsel for the respondent's plea that the applicant has not exhausted the departmental remedies before approaching the Tribunal holds good. The present OA is, in the circumstances, pre-mature and deserves to be dismissed on this ground alone.

5. As regards the <sup>other</sup> grounds taken and to which a reference has been made above, suffice it to say that the matters raised are required to be considered by the disciplinary authority/appointing authority and it is not open to this Tribunal to try to ascertain as to whether an order of suspension could be passed in a particular case. The authority to pass suspension orders stands vested in

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the appropriate authorities and they have been given the necessary discretion in the matter. The exercise of such a discretion, unless the same is found to be patently malafide, cannot be questioned. Malafide has not been alleged in this case at all.

6. For all the reasons mentioned in the preceding paragraphs, the OA is found to be devoid of merits as well as pre-mature and is dismissed without any order as to costs.

S.A.T. Rizvi

(S.A.T. Rizvi)  
Member (A)

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