

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH NEW DELHI

(4)

O.A. NO. 2847/2001

New Delhi, this the 18<sup>th</sup> day of January 2002

Hon'ble Shri Govindan S. Tampi, Member (A)

Sh. Syed Sajid Ali,  
Dy. S.P., CBI  
R/o 200 HIG, Arunodaya Apartments,  
F Block, Vikas Puri,  
New Delhi

.....Applicant

(By Shri M.K. Gupta, Advocate)

VERSUS

1. Union of India through  
its Secretary,  
Min. of Personnel, Public Grievances & Pensions  
Deptt. of Personnel & Training,  
North Block, New Delhi
2. Central Bureau of Investigation,  
Through its Director,  
CGO Complex, Lodhi Road,  
New Delhi.

.....Respondents

(By Sh. M.M. Sudan, Advocate)

O R D E R

Continued suspension of the applicant since 8.9.2000, ordered by the respondents is the matter under challenge in this OA.

2. Heard S/Sh. M K Gupta, learned counsel for the applicant while the respondents were represented by Sh. M M Sudan, learned Sr. Counsel alongwith Sh. Rajiv Sharma.

3. The applicant is a Dy.S.P. in CBI since May 1996 and is an officer who has had a excellent record of service of performance over years and is also a recipient of the President's Indian Police Medal during 199. He was

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also associated with a <sup>-2-</sup> number of very important investigations undertaken by the CBI in the past. Following submissions of a Source Information Report by the applicant on 6.9.99 to Shri Anil Kumar, SP CBI, about the holding of huge disproportionate assets by some Government officials, the applicant was transferred to Port Blair on 14.9.99. His bringing the above facts <sup>to</sup> the knowledge of the former CBI, Director annoyed number of senior people. On 3.8.2000 while he was working at Port Blair he received a threatening call demanding a ransom of Rs. 5 lakhs on which a FIR was filed by him on 4.8.2000. According to the applicant this has been caused by certain officers of the CBI. The applicant made a detailed representation on 4.10.2000 to the respondents as well as to the National Human Rights Commission about the above, but no action has been taken thereon. His further representation dated 29.8.2000 also did not illicit any response. On 25.8.2000 a FIR was lodged by some individuals with vested interests alleging that the applicant had amassed huge assets. Knowing about the same the applicant himself submitted a statement on 12.6.2000 incorporating the details of the assets held by him and the members of his family. The same has not been entertained. He was placed under suspension on 8.9.2000. The applicant had not been paid many of his dues on account of suspension i.e. Subsistence allowances, TA Bills etc. for which also he made a representation including one to the National Minority Commission. The Commission also had directed the respondents to revoke the applicants suspension order and the Commission has been informed by the respondents that the said letter has been forwarded to the Government of India.

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4. The subsistence allowances granted to him in October 2000 has been increased on 17.9.2001 but nothing further has been done. On 8.10.2001 he has been informed that the matter regarding revocation of suspension has been referred to the DoPT but since nothing further has been heard or no action has been taken he has come to the Tribunal . The grounds raised in the application are as below:

- a) The suspension order dated 8.9.2000 has been issued as a disciplinary proceeding against the applicant "is contemplated" ,but nothing has been done nor any charge sheet has been issued to him as yet; though nearly one year and 3 months have gone by;
- b) there was delay in raising the subsistence allowance which was done only on his completing one year under suspension i.e. 17.9.2001 for no fault of his;
- c) the impugned order has been issued without any application of mind;
- d) there has not been any periodical review of the suspension which is mandatory in this regard;
- e) the suspension has not at all been in public interest and had arisen out only of malice;
- f) instructions directing that the suspension could be revoked when the officers presence was no longer

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detrimental to the investigation or when the officer is posted elsewhere have not been followed and

g) applicant's repeated representation have not been acted upon.

6. During the oral submissions the above pleas were strongly reiterated by Shri M K Gupta, learned counsel who invited my attention to the decision of the Tribunal on 6.2.2001 in OA 833/2000 in the case of Bani Singh Vs UOI and Others wherein it was held that as the investigations by the CBI has been completed and criminal trial was already in progress no grounds remained is to continue with the suspension order of the applicant. This would apply to the instant OA as well, according to Sh. Gupta, as the reply filed by the respondents gave indication that on completion of the investigations papers have been sent to Central Vigilance Commission (CVC), seeking approval for prosecution in the applicant's case but no intimation has been given about the date on which such reference has been made. It is possible that considerable time would elapse before the <sup>sadly</sup> reference is answered and keeping the applicant under suspension <sup>till such time</sup> was totally unreasonable, and harsh, pleads Sh. Gupta.

7. Rebutting strongly the pleas raised on behalf of the applicant, Shri M M Sudan, learned Sr. Counsel for the respondents, points out that it was not correct to state that the applicant's filing the Source Information Report, had led to the applicant's original transfer from Delhi to Port Blair as alleged. Information was received pertaining to the illegal activities of the applicant while he was

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working in Port Blair. At that time he was on duty at Calcutta and was asked to remain there. Sensing the ongoing enquiry against him, he reached Port Blair on 31.7.2000 and lodged a FIR with Abradeen Police Station. A case of disproportionate assets was registered against the applicant leading to a number of searches on 29.8.2000, following which he came out and made a representation. Averments made by him in the said representation are totally baseless and misleading.

5. Shri Sudan further points out that the applicant is a responsible officer working in a Group "A" post in CBI, which is the premier investigating agency of the country and it is the responsibility of the organisation like to ensure its fair name and credibility by maintaining strictent standards of decorum relating to their own staff. If the CBI Staff themselves are shown as indulging in the very same activities, which they are called upon to prevent and guard against, considerable loss of face and credibility would result. When CBI is functioning under the Superintendence, of the CVC, in terms of the directions of the Hon'ble Supreme court, it is expected that the staff would exhibit still higher sense of responsibility and devotion to duty, which has not been shown by the applicant. Hence proceedings.

8. Shri Sudan maintains further that a criminal case has already been registered against the applicant and the preliminary investigations have shown that that there was sufficient material to prosecute the individual in the court of law as well as to proceed against him departmentally. Learned Sr. Counsel also invited my attention to the decision of the Hon'ble Supreme Court in

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the case of Allahabad Bank and Anr. Vs. Deepak Kumar Bhola [JT 1997 (3) SC 539] which according to him, clearly covered the present situation. The matter has already been referred to the CVC and once their advice is received action will be taken accordingly. At that time the representations so far made by the applicant would also consider if so warranted by the circumstances. At present Sh. Sudan, prays that the Tribunal will not be inclined to interfere in the matter. It was also pointed out by him that the decision of the Tribunal in Bani Singh's case, referred to by the applicant's counsel was not applicable in the present case.

9. I have carefully considered the matter. It is matter of record that the CBI had initiated proceedings against the applicant who is Dy.S.P. of the same organisation on charges of amassing assets totally disproportionate to his known source of income. It is also on record that the CBI is a prime organisation in the country charged with the responsibility of undertaking investigations into amassing of uncounted wealth/assets by the Government servant. It follows therefore that the CBI has to set its own house to in order by ensuring that staff posted with them are incorruptible and above suspicion like "Caesar's wife". The respondents have kept this maximum in mind while initiating the steps against the applicant and making investigations. It is true that one year and 3 months have passed by but the suspension continues to be in effect. However, in the circumstances of the case and also on account of the fact that the CBI in these matters are governed by the directions of the CVC under whose general superintendence they function, they would require some more time for initiating necessary steps on the basis of

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the investigation report and to take follow up action. In coming to decision I am fortified by the observations of the Hon'ble Supreme Court in Allahabad Bank & Anr. Vs. Deepak Kumar Bhola (supra), relevant portion of which are reproduced below:

" We are unable to agree with the contention of learned counsels for the respondent that there has been no application of mind or the objective consideration of the facts by the appellant before it passed the orders of suspension. As already observed, the very fact that the investigation was conducted by the CBI which resulted in the filing of a charge sheet, alleging various offences having been committed by the respondent, was sufficient for the appellant to conclude that pending prosecution the respondent should be suspended. It would be indeed inconceivable that a bank should allow an employee to continue to remain on duty when he is facing serious charges of corruption and mis-appropriation of money. Allowing such a employee to remain in the seat would result in giving him further opportunity to indulge in the acts for which he was being prosecuted. Under the circumstances, it was the bounden duty of the appellant to have taken recourse to the provisions of clause 19.3 of the First Bipartite Settlement, 1966. The mere fact that nearly 10 years have elapsed since the charge sheet was filed, can also be no ground for allowing the respondent to come back to duty on a sensitive post in the bank, unless he is exonerated of the charge."

10. I am also of the view that the decision of the Tribunal in Bani Singh case, relied upon by the learned counsel for the applicant is <sup>not</sup> of any assistance to him. Mere fact that the investigation has been completed does not follow that the suspension of the individual under investigation has to be revoked. It is for the competent authority to take a decision in the matter, keeping in mind the circumstances of the case. And no general principles can be laid down in this regard.

11. In the above view of the matter, I am not convinced above that the applicant has made out any case for immediate revocation of the suspension. The application therefore has to fail. <sup>However, while</sup> disposing of the

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- & - for revoking the suspension

OA repelling the applicant's plea, I am directing the respondents to ensure that the said process of initiating follow up action on the investigation report should be completed by them within 4 months from the date of receipt of copy of this order. They may also bring this order to the notice of the CVC so that the issue of their advice to the CBI is speeded and action taken. If still at the end of the period of four months now granted to the respondents, the present position continues, the applicant shall be at liberty to move to the Tribunal once again. No costs.

(Govindan S. Tampi)  
Member (A)

Patwal/