

Central Administrative Tribunal, Principal Bench

Original Application No. 1099 of 1999

New Delhi, this the 17th day of November, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

(13)

Shri Bahadur Singh S/o Shri Vijay
Ram R/o 251-A, MIG Flats,
Rajouri Garden, New Delhi.

- Applicant

By Advocate Sh. B. B. Raval.

VERSUS

1. Union of India
M/o Home Affairs,
North Block,
New Delhi
(Through: The Secretary).

2. The Joint Secretary (UT)
M/o Home Affairs,
North Block,
New Delhi.

3. The Commissioner of Police,
Delhi Police,
Police Headquarters,
I.P. Estates,
New Delhi-2.

- Respondents

By Advocate - Shri V.S.R. Krishna.

ORDER

By Hon'ble Mr. Kuldip Singh, Member (J)

In this OA the applicant has challenged an order dated 9/15.4.1997 passed by respondents whereby the applicant had been placed under suspension w.e.f. 19.2.1997. This order was subsequently modified vide another order dated 4.7.1997 whereby the date of the suspension of the applicant was antedated as 18.2.1997. The applicant in this OA while assailing the order of suspension has also alleged that as he has made representation for revocation of his suspension as well as enhancement of his subsistence allowance on 9.6.1998, but no order on the same has

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been passed by the respondents.

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2. Facts in brief are that in the year 1996 about 100 persons of Indian origin feared to have been drowned on a small ship which capsized in the high seas. All those Indian persons were stated to have left India with the connivance of certain travel agents on invalid/forged documents and at the relevant time the applicant was posted at IGI, Airport on the Immigration Check Post. The applicant claims that though his name was not mentioned in the FIR, but still the respondents placed him under suspension w.e.f. 18.2.1997 on the ground that a case had been registered against him and investigation was taken in terms of Rule 10(2) of the CCS (COA) Rules, 1965. The respondents also issued another order vide which he was allowed to draw subsistence allowance. The applicant states that he is continuing under suspension and is being paid at the rate of 50% against the Government instructions on the subject. Though charge-sheet had been filed against the applicant, who along with other persons have been appearing in the Court, but no formal charge has been framed and it is also stated that the applicant has been falsely implicated and no departmental proceedings has been initiated against the applicant by the respondents.

3. It is further alleged that since the applicant has not been served with any article of charge for initiating disciplinary proceedings, so the

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continued suspension is unjustified and is contrary to the rules since the trial is to take quite a long time so the suspension order is liable to be quashed as there is no reasonable basis for his continued suspension. Besides that it is also pleaded that after a period of 3 months of suspension, the respondents should have reviewed the rate of subsistence allowance to be paid to the applicant.

4. It is, therefore, prayed that the suspension be quashed and the subsistence allowance be paid at the rate of 775% after 3 months of his initial suspension.

5. The respondents contested the O.A. They pleaded that since the applicant remained in judicial custody exceeding 48 hours so he was placed under suspension from 18.12.1997 as per rules vide impugned order. The applicant was allowed to draw subsistence allowance under FR 53 vide Annexure R-II.

6. It is further pleaded that another case was registered against the applicant by the CBI for disproportionate assets to his known sources of income. During the investigation, his house was also raided and he was found to be in possession of disproportionate assets to his known sources of income.

7. The respondents further pleaded that the order vide which the applicant was placed under suspension was reviewed by the competent authority,

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who came to the conclusion that there was no justification to reinstate the applicant in service. The order was conveyed to the applicant.

8. It is further pleaded that the subsistence allowance which is being drawn by the applicant was, however, increased by 50% of the subsistence allowance admissible to him during the first three months of his suspension vide order dated 28.6.99, copy of which is Annexure R-IV and subsistence allowance has been revised with retrospective effect w.e.f. 18.5.97, i.e., exactly after 3 months of the date of suspension which is 18.2.97.

9. We have heard the learned counsel for the parties and have gone through the records of the case.

10. So far as plea regarding revision of subsistence allowance is concerned vide order dated 28.6.99, Annexure R-IV the subsistence allowance has already been revised so that part of the relief has already been granted and no further order is called for.

11. As regards the quashing of the suspension order is concerned, it is an admitted case of the applicant himself that he remained in custody exceeding 48 hours and a charge-sheet has also been filed against him and the case is under trial before the District and Session Court at Delhi. Merely because the applicant's name is not mentioned in the FIR, that cannot be a ground to quash the suspension

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order because that cannot be a ground to reach at a conclusion that the applicant is not involved in the offence for which a case had been registered against him and the same is pending trial. There is no material on record which may show that the applicant had been falsely implicated in the matter. Hence, we find that no case for quashing of the impugned order is made out. Moreover, department has already done the exercise of review of suspension order and found ^u no justification for review. No further review can be directed at this stage.

12. In view of the above background, we find that as far relief for quashing of suspension order is concerned, that cannot be allowed and the OA is rejected on that score. As regards enhancing of subsistence allowance is concerned since that relief has already been granted, so no order is called for on that account.

13. In view of the above, OA is partly allowed. ^{disposal of the}

No costs
 J. A. T. Rizvi
 (S.A.T. Rizvi)
 Member (A)

Kuldeep Singh
 (Kuldeep Singh)
 Member (J)

/Rakesh/