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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

OA NO.165/98

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

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

In the matter of:

Hari Prasad Pandey, son of Sh. Ram Sukh Pandey, R/o D-2/29, Sangam Vihar, New Delhi.

.... Applicant

(By Advocate: None)

VERSUS

Union of India Through the Secretary to the Govt. of India, Ministry of Home Affairs, North Block, New Delhi.

.... Respondent

(By Advocate: Sh. D.S.Mahendru)

ORDER (ORAL)

By Mrs. Lakshmi Swaminathan, Member (J)

The applicant is aggrieved by the order passed by the respondents dated 22.7.91 placing him under suspension. The main relief's prayed for by the applicant is that the order of suspension may be revoked and he may be reinstated in service w.e.f. 22.7.91 and payment of arrears of pay and allowances for the intervening with all consequential benefits. period.

2. As none has appeared for the applicant even on the second call, I have perused the pleadings and heard Sh. D.S.Mahendru, learned counsel for the respondents.

3. MA-1975/98, which had been filed by the applicant has been dismissed by Tribunal's order dated 2.12.98.

4. The applicant, while in service with the respondents in the Central Secretariat Clerical Service

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and working as Section Officer, was placed under suspension by the aforesaid suspension order dated 22.7.91. In this order it has been stated that suspension has been ordered in respect of a criminal case which was under investigation against the applicant. According to the applicant, he had been falsely implicated in the criminal case. Charge had been filed against him by the CBI on 22.2.93. Applicant was discharged from the criminal case on 25.2.97 by the trial Court, on the ground that the sanction for the prosecution against him was illegal and had been issued without application of mind. Thereafter, the applicant has stated that he had made a request to the respondents to revoke his suspension and reinstate him in service under Rule 10 (5)(c) of CCS (CCA) Rules, 1965 and to treat the intervening period of suspension as one spent on duty with full pay and allowances. He has submitted that he has sent several reminders in this regard but nothing has happened and no reply has also given to him by the respondents. Hence the OA.

5. The respondents in their reply have submitted that after the applicant was discharged by the trial Court, with the observation in the order dated 25.2.97 that the CBI would be at liberty to file a fresh charge sheet after obtaining a sanction order in accordance with law, they have issued a fresh sanction regarding prosecution of the applicant. They have also stated that the CBI has accordingly filed a fresh charge-sheet on 4.11.97 in the court of the Special Judge, Tis Hazari Court, Delhi. Sh. D.S.Mahendru, learned counsel has

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submitted that the fresh charge-sheet issued against the applicant on 4.11.97 is still pending in the criminal court. Hence, the applicant has been continued under suspension under the relevant rules. Learned counsel has, therefore, submitted that there is no justification to revoke the suspension against the applicant as prayed for by him. He has also submitted that the contention of the applicant in para 18 of the OA that there has been no charge-sheet against the applicant at the time of filing the OA on 14.1.98 is false and incorrect because a fresh charge-sheet has already been issued to the applicant on 4.11.97 and the suspension has been continued. In the rejoinder filed by the applicant this fact has been denied "for want of knowledge that the charge-sheet was filed on 4.11.97. Hence, it is submitted that the summons were served to the applicant on 12.2.98 and he appeared on 26.2.98." The subsequent statement made by the applicant that he has appeared, before the trial court, with respect to the second charge-sheet issued on 4.11.97 shows that the applicant has been charge-sheeted again by the CBI which is still pending before the Hon'ble Criminal Court. Learned counsel has submitted that in view of these facts, the OA may be rejected.

6. I have carefully perused the pleadings and considered the submissions made by the learned counsel for the respondents. From the facts stated by the applicant himself in the rejoinder in paragraph 4 (18), with regard to the averments made by the respondents in their counter reply, it is seen that CBI has filed a fresh charge-sheet against him on 4.11.97 in the court of
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the Special Judge, Tis Hazari Court, Delhi, in which court apparently the applicant had appeared on 26.2.98. Therefore, a criminal case is pending against the applicant. The respondents have also stated that in the circumstances of the case, suspension has been continued and the same does not warrant revocation at this stage. The applicant continues on suspension in view of the fact that a criminal case is pending against him.

7. Taking into account the facts and circumstances of the case, there is no merit in this application. In the result, the OA is accordingly dismissed. No order as to costs.

Lakshmi Swaminathan,

(MRS. LAKSHMI SWAMINATHAN)
Member (J)

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