

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1682/1998

New Delhi, this 12th day of October, 2000

Hon'ble Shri M.P. Singh, Member(A)

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Radhey Shyam Sharma  
C-3/2, Police Colony  
Andrews Ganj, New Delhi-49 .. Applicant  
(By Shri G.D.Gupta, Advocate)

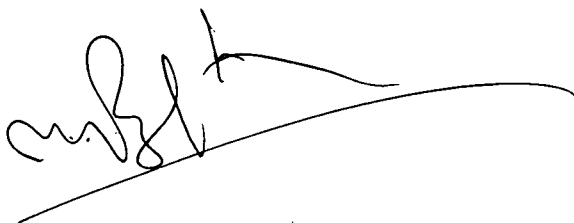
versus

Government of NCT of Delhi, through  
Chief Secretary  
5, Sham Nath Marg, Delhi-54 .. Respondent  
(By Shri Vijay Pandita, Advocate)

ORDER(oral)

Applicant has filed this OA under Section 19 of the Administrative Tribunal Act, 1985 challenging the order dated 16.6.97 suspending him on the ground that disciplinary proceedings were contemplated against him.

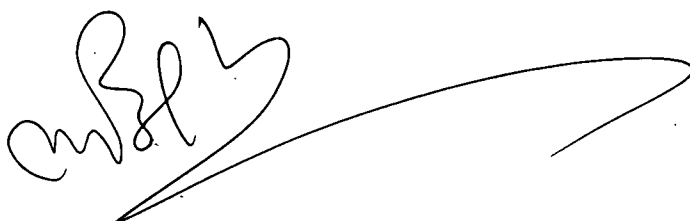
2. The applicant was appointed as Assistant Public Prosecutor in the Prosecution Branch of the respondent. While working as such he was suddenly placed under suspension vide order dated 16.6.97 on the ground that disciplinary proceedings against him were contemplated. However, there was no indication in the said order as to in regard to which matter or case the disciplinary proceedings were being contemplated. It has been inter-alia alleged by the applicant that the Chief Prosecutor, Patiala House Courts, New Delhi (Shri S.N.Srivastava) had demanded Rs.10,000 per month as a bribe for the smooth service of the applicant, failing which the applicant was threatened that he would not be allowed to serve peacefully. Thereafter the applicant has submitted a number of representations to the concerned authorities. Despite these, no charge-sheet has yet been filed against the applicant. According to him, Government of



India's instructions provide that charge-sheet should be issued within a period of 3 months. The said instructions further provide that cases of suspension be reviewed periodically after every three months for the purpose of continuation or revocation of suspension. Under the circumstances, the applicant has been left with no other alternative but to approach this Tribunal. He has filed this OA seeking directions to quash the order of suspension dated 16.6.97 and reinstate him with all consequential benefits. 18

3. Respondent, have contested the case and have stated that the applicant has been suspended while he was arrested by the Police on 2.3.97 in FIR No.245/97 and the medical report of the applicant shows as "Alcohol found". Further while the applicant was posted as Additional Public Prosecutor in the Court of Shri V.K. Bansal, one Smt. Chandrika appeared as an accused in the said court on 21.2.97 in a case FIR No.299/87 and the applicant stood as surety for the accused in the same court without seeking permission from the Department which is a gross misconduct. According to the respondents, subsistence allowance for the applicant has been increased from 50% to 75% vide order dated 11.9.98. In view of the aforesaid submissions, the OA is liable to be dismissed.
4. Heard the contentions of the contesting rival parties and perused the records.

5. Cases relating to suspension of government servants are regulated under the instructions contained in Ministry of Home Affairs letter dated 7.9.65 and Department of Personnel OM dated 4.2.71. According to these instructions, follow up action should be speeded up in suspension cases within a particular time limit. These instructions read as under:



"Even though suspension may not be considered as a punishment, it does constitute a very great hardship for a government servant. In fairness to him, it is essential to ensure that this period is reduced to the barest minimum."

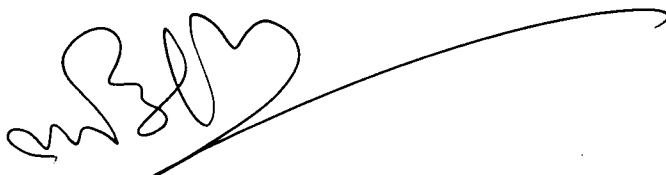
(19)

It has, therefore, been decided that in cases of officers under suspension, the investigation should be completed and a charge-sheet filed in a court of competent jurisdiction in cases of prosecution or served on the officer in cases of departmental proceedings within six months as a rule. If the investigation is likely to take more time, it should be considered whether the suspension order should be revoked and the officer permitted to resume duty. If the presence of the officer is considered detrimental to the collection of evidence etc. or if he is likely to tamper with the evidence, he may be transferred on revocation of the suspension order.

In partial modification of the above order, it has been decided that every effort should be made to file the charge-sheet in court or serve the charge-sheet on the government servant, as the case may be, within three months of the date of suspension, and in cases in which it may not be possible to do so, the disciplinary authority should report the matter to the next higher authority explaining the reasons for the delay."

5. In this case, suspension order was passed in June, 1997. More than 3 years have passed, but the respondents have neither served any charge-sheet on the applicant nor have initiated any enquiry against him. The action taken by the respondent is not in accordance with the instructions cited above.


6. During the course of the arguments, the learned counsel for the applicant has drawn my attention to the judgement decided on 12.4.93 by the Hon'ble Supreme Court in the case of State of H.P. Vs. B.C.Thakur (1994) 27 ATC 567, wherein it has been held that "The respondent had been under suspension for nearly two years on the date of the Tribunal's order and another year has elapsed since then. Setting the suspension order in this situation, particularly when no substantial progress in the disciplinary proceedings has been made as yet, does not, therefore, call for any interference".



7. Learned counsel for the respondent has placed reliance on the judgement of apex court in the case of UP Rajya Krishi Utpadan Mandi Parishad Vs. Sanjeev Rajan 1993 (4) SLR 543. He has further placed reliance on the judgements of the apex court in the cases reported in 1993(25) ATC 764, 1995(5) SLR 277 (P&H) and 1986(3) SLR 326 (Karnataka). I have carefully gone through these judgements and I find that these are not applicable in the present case.

8. Keeping in view the fact that applicant has been kept under suspension for a long period without issuing him charge-sheet or initiating any enquiry which is against Government instructions and also the judgement of the apex court in the case of B.C.Thakur (supra), it is a fit case where the order of suspension dated 16.6.97 passed by the respondent is required to be set aside.

9. In view of the above discussions, the OA is allowed and the order dated 16.6.97 is quashed and set aside. The respondent are directed to reinstate the applicant and grant him all consequential benefits within a period of two months from the date of receipt of a copy of this order. No costs.

  
(M.P. Singh)  
Member(A)

/gtv/