

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A. No. 642/98

New Delhi: this the 5th day of JUNE, 1998

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

HON'BLE MR. T.N. BHAT, MEMBER (J)

Narender Verma,
S/o Shri Late Keshav Prasadi,
R/o Sector IV, Flat No. 1135,
R.K.Puram,
New Delhi

... Applicant.

(By Advocate: Mrs. Meera Chhibber)

Versus

1. Union of India,
through
Secretary,
Department of Personnel,
North Block,
New Delhi.

2. Secretary,
Ministry of Home Affairs,
North Block,
New Delhi

... Respondents.

(By Advocate: Shri V.S. R.Krishna)

JUDGMENT

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondents' order dated 5.1.98 rejecting his representation for revocation of deemed suspension and seeks a direction to respondents to revoke his suspension and post him in some other Ministry.

2. Applicant was arrested in connection with a CBI case registered on 25.5.95 on the basis of FIR No. 101/95 and remanded to police custody till 28.5.95. In that FIR Smt. Sudesh Kumar w/o Shri K.C. Jakhoo, another Under Secretary in MHA (now under deemed suspension) had alleged

that her husband Shri Jakhoo along with some other officers had been involved in rape of her 8 years' old daughter. The case was subsequently transferred to CBI which arrested applicant and some other officers of MHA. Following the arrest on 25.5.95 and remand to police custody till 28.5.95, the applicant was placed under deemed suspension under Rule 10(2) CCS(CCA) Rules.

3. We have heard Mrs. Meera Chhibber for the applicant and Shri V.S.R. Krishna for the respondents.

4. Mrs. Chhibber has contended that it was applicant's bad luck that he was made to share an office room with Shri Jakhoo who had strained relations with his wife and both of them were trying to harm each other in whatever mean that came in their way. She contends that in order to malign her husband's reputation, Mrs. Jakhoo made certain allegations against her husband to a CAW Cell regarding criminal abuse of her small child, and subsequently Mrs. Jakhoo roped in other officers also from the same Ministry. She contends that the CAW Cell did not find any substance in the allegations of Mrs. Jakhoo and closed the matter vide their report (Annexure-P II). Thereupon it is contended that Mrs. Jakhoo got the matter transferred to CBI who arrested the applicant and detained him for more than 48 hours, and was placed under suspension. Since the matter invited media's attention, CBI started arresting people even though in the initial complaint made to the department

and CAW Cell, the names of other officers were not even mentioned. She has invited attention to the Delhi High Court's order on the applicant's bail petition wherein the DHC had come to conclusion that no offence under sec.377 IPC is made out and the applicant was released on bail. She has stated that the complaint made by Mrs. Jakhoor relates to an incident of March, 1994 whereas the applicant was on medical leave from 9.3.94 to 13.4.94 because of Jaundice. She has also stated that despite the DHC's orders on applicant's bail application, he was charged under section 109, read with section 354, IPC which the applicant has separately challenged vide Revision Petition No. 198/96 but meanwhile the criminal case had started and despite 3 years having elapsed, only two witnesses out of 48 PWS have been examined so far. She has emphasised that the applicant has his own family and a daughter of marriageable age, and the criminal case is itself causing mental tension, agony and ^{his} torture without having done anything in the matter, and on top of it the ^{added} continued suspension is causing L mental hardship to him. Other arguments have also been advanced. Our attention has also been drawn to a judgment of the Allahabad High Court in Ram Chetan Vs. State of U.P. & Ors, delivered on 8.11.95, wherein it has been held by AHC that since the applicant had been enlarged on bail, there was no justification for continuation of the suspension order till finalisation of the criminal case which is bound to take considerable period of time, The AHC had set aside that suspension order giving liberty to respondents to pass a fresh order of

(6)

suspension after disposal of criminal trial if the respondents were of the view that the departmental proceedings should be initiated against the applicant in respect of self framed charges. Mrs. Chhibber has stated that a similar order has been issued in the present case.

5. On the other hand, Shri V.S.R.Krishna has stated that the applicant is facing trial in regard to very serious offences involving sexual harassment of a minor child and reinstating him at this stage is not conducive to maintaining discipline and hence is not in the public interest which is the guiding principle in placing a Govt. servant under suspension, or continuing the suspension.

6. We have consider the matter carefully.

7. Rule 10 CCS(CCA) relates to suspension. While under Rule 10(2) a Govt. servant in certain situations shall be deemed to have been placed under suspension, Under Rule 10(1) the use of the word 'may' implies that in certain other situations a measure of discretion is available to the concerned authority whether or not to place a Govt. servant under suspension. The manner in which that discretion has to be exercised is set forth in the guiding principles for placing a Govt. servant under suspension, contained in MHA's letter dated 22.10.64 as amplified by DOP & T's OM's dated 16.2.85 and 20.6.86. Govt. guidelines also require that the cases of Govt. servants under suspension should be reviewed at periodical intervals keeping in view the contents of Circulars referred to above. While the impugned order dated 5.1.98 rejecting the applicant's representation for revocation of deemed suspension has no doubt

(2)

invoked the public interest as a deciding factor in rejecting his prayer for revocation of suspension, it has not been specifically mentioned that the case was reviewed in the background of the guidelines, issued on the subject from time to time and referred to above. In any case, 5 months have expired since the issue of the impugned order dated 5.1.98.

8. This OA is therefore disposed of with a direction to the respondents to review the applicant's case in the light of the relevant rules and guiding principles issued from time to time including the averments made by applicant's counsel during hearing ^{1 and the other averments made in the OA,} and noticed above, and thereafter to pass a detailed, speaking and reasoned order in accordance with those rules and principles, within 2 months from the date of receipt of a copy of this order under intimation to the applicant. No costs.


(T.N. Bhat)
MEMBER(J)


(S.R. ADIGE)
VICE CHAIRMAN (A).

/ug/