

Central Administrative Tribunal
Principal Bench

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D.A. No. 1585/95

New Delhi, this the 4th day of March, 1996

Hon'ble Shri A.V.Haridasan, Vice-Chairman (J)
Hon'ble Shri R.K. Ahooja, Member (A)

Sh. Vijay Singh Bhandari
s/o Late Sh. D.S. Bhandari
Gr. I Officer of DASS/Asstt. Sales Tax Officer,
(Under Suspension) Sales Tax Deptt.,
Govt. of NCT of Delhi, Delhi.

R/o 1398, Gulabi Bagh,
Delhi Admn. Flats,
New Delhi.

...Applicant

(By Shri A.K. Sharma, Advocate)

Versus

Union of India through

1. Chief Secretary,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi- 110 054.
2. Commissioner Sales Tax,
Govt. of NCT of Delhi,
Sales Tax House,
I.P.Estate,
New Delhi- 110 002.

...Respondents

(By Shri R.P. Sharma, Deptt. representative)

O R D E R (Oral)

By Hon'ble Shri A.V.Haridasan, Vice-Chairman (J)

The applicant was placed under suspension
w.e.f. 29.3.1994 in contemplation of a departmental
proceedings against him. His grievance is that even
after a lapse of long period, the respondents have

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neither initiated the contemplated disciplinary proceedings by issuing a charge-sheet nor revoked the suspension. He is also aggrieved by the fact that the respondents have not, as required under the rules, reviewed and enhanced the quantum of subsistence allowance. Under these circumstances, the applicant has filed this application for the following reliefs:-

"(i) to quash the suspension order dated 29.3.1994 with consequential benefits;

(ii) to direct the respondents to grant subsistence allowance at 75% of the leave salary w.e.f. 30th June, 1994;

(iii) to direct the respondents to issue the charge-sheet within a period of three months and conclude the proceeding in a further period of three months failing which it will be presumed that the applicant stands automatically exonerated or any other order as deemed fit in the facts and circumstances of the case be passed".

2. The respondents resist the O.A. They contend that as there are several cases of the similar nature in which verification of numerous documents and a detailed enquiry being found necessary for finalization as to how the disciplinary proceedings have to be commenced, the matter is likely to take some more time and, therefore, the applicant is not entitled to the relief claimed.

3. When the application came up for hearing on 16.1.1996, the case was adjourned to 18.1.1996 for final hearing, if possible. On 18.1.1996, a departmental representative appeared for the respondents and stated that their counsel Sh. Arun Bhardwaj being unwell, he could not come to court on that day and he requested for an adjournment. An adjournment, as prayed for, was granted on 18.1.1996 making it clear that if the

respondents would not appear and present their case on the next date of hearing, the application would be heard and disposed of with the available pleadings as this is a matter in which the applicant remained under suspension for a considerably long time. Again when the case came up for hearing on 2.2.1996, Shri Arun Bhardwaj, counsel for the respondents sought a week's time to produce the relevant documents justifying the delay in finalizing the disciplinary proceedings and the file which would show that the case of the applicant for revision of subsistence allowance was considered and the case was adjourned for hearing on 13.2.1996. On 13.2.1996 a departmental representative appeared for the respondents and stated that Shri Arun Bhardwaj is unwell and therefore, the case was adjourned to this date. Today, when the case came up for hearing, the learned counsel for the applicant is present and the departmental representative Shri R.P.Pharma, S.T.I. is also present. Departmentative representative has neither produced the relevant record nor is he in a position to say whether the counsel would be coming to argue the case even at the second call. Under these circumstances, we are left with no alternative but to peruse the pleadings in this application and to dispose off this application after hearing the learned counsel of the applicant.

4. It is a fact beyond dispute that the applicant is continuing under suspension for about a period of two years as he was placed under suspension by order dated 29.3.1994. The suspension was ordered, as seen from the impugned order, under the circumstances that a disciplinary proceeding was contemplated against the applicant. The continue suspension of an officer paying him subsistence allowance and not initiating the disciplinary proceeding for a long time cannot be considered in a public interest. No material which could enable us to come to any finding as to whether there is any genuine difficulty for the respondents in taking a decision

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regarding the holding of disciplinary proceeding also is forthcoming from the respondents. We are of the considered view that in the circumstances of the case, the respondents have to be directed to finalise the issue and if they choose to hold a disciplinary proceeding against the applicant, to do the same within a reasonable time frame and also to review the case of the applicant for enhancement of the subsistence allowance w.e.f. the relevant date in case the suspension is not revoked. If no such action is taken then suspension has to be revoked.

5. In the circumstances, the application is finally disposed of at the admission stage itself with the following directions:-

- (a) If the respondents still hold the view that disciplinary proceedings have to be taken against the applicant for any alleged misconduct, they shall commence the disciplinary proceedings by serving a charge-sheet on the applicant within a period of two months from the date of the communication of this order;
- (b) If a charge-sheet is not served on the applicant within the aforesaid period of two months from the date of communication of this order, the impugned suspension of the applicant shall stand quashed and the applicant shall be re-instated in service forthwith and he shall be paid the full salary and allowances for the period he was kept under suspension;
- (c) If a charge-sheet is served as in 'a' above the respondents shall with effect from the relevant date review the order of suspension in regard to quantum of subsistence allowance in accordance with the rules, and if the applicant be found to be entitled to enhancement in subsistence allowance the arrears thereof shall be paid

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to him within one month from the date of service
of charge-sheet.

(d) There will be no order as to costs.

~~Reedan~~
(R.K.Ahooja)
Member(A)

Maridasan
(A.V.Maridasan)
Vice-Chairman(J)

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