

(2)

Central Administrative Tribunal  
Principal Bench, New Delhi

OA No.958/95

New Delhi: May 26, 1995.

Hon'ble Mr. A.V.Haridasan, Vice Chairman (J)  
Hon'ble Mr K.Muthukumar, Member (A)

D.S.Chaudhary  
R/o 7C Mall Road  
Delhi

...Applicant

(By advocate:Shri A.K.Behra)

Versus

1. Lt. Governor  
National Capital Territory of Delhi  
Raj Bhavan  
New Delhi.
2. The Chief Secretary  
Govt. of NCT of Delhi  
5, Sham Nath Marg  
Delhi-110 054
3. The Commissioner (Transport)  
Govt. of NCT of Delhi  
5, Sham Nath Marg  
Delhi-110 054.
4. Central Bureau of Investigation  
through its Director  
CGO Complex, Lodhi Road  
New Delhi

...Respondents

O R D E R(oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The applicant who is working as Motor Licensing Officer and also designated as Assistant Secretary in the Transport Department of the National Capital Territory of Delhi is aggrieved by the order dated 6.7.1994 issued by the second respondent, placing him under suspension with immediate effect in exercise of the powers conferred on him by sub-rule (1) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, and the order of the respondent No.1 rejecting his appeal against the order of suspension. He has, therefore, filed this application under section 19 of the Administrative Tribunal's Act, 1985, praying that the impugned orders may be quashed.

2

(23)

2. The historical backgrounds in which the impugned order came to be passed can be briefly stated as follows:

3. On 31.5.90, an FIR was registered against certain persons for criminal conspiracy and issuance of bogus motor permits and subsequently a charge-sheet was made before the court in which the applicant was one of the accused persons. After the investigation of the case, the case is now at the stage of trial. While so, on 6.7.94, the second respondent by the impugned order placed the applicant under suspension in contemplation of disciplinary proceedings against him. Thereafter the second respondent issued a memo of charges against the applicant on 25.4.1995. The impugned order of suspension is assailed mainly on the ground that the second respondent, before deciding to place the applicant under suspension, has not taken into account the various guidelines in regard to placing an official under suspension, contained in the government instructions. It has been stated that the second respondent did not consider whether a mere transfer of the applicant to another office would be sufficient, whether it was likely or not that the applicant would tamper with the evidence in the departmental proceedings and whether the continuance of the applicant under suspension would in any way be prejudicial to public interest and that therefore the impugned order suffers from arbitrariness and lack of application of mind. The order of the first respondent rejecting the applicant's appeal against the order of suspension is assailed mainly on the ground that the order of suspension was sought to be justified on the ground that the CBI had advised that it would be advisable to keep the applicant under suspension as he was facing a criminal trial which by itself is not sufficient ground for placing an official under suspension.

4. We have heard learned counsel for the applicant and have also carefully gone through the petition and the material brought on record.

h



5. Learned counsel for the applicant states that it has been consistently held by this Tribunal as well as by the Hon'ble Supreme Court that though suspension is not a punishment, as far as the person suspended is concerned, it may be at times more severe than a punishment. He argued that as suspension casts a cloud on the reputation of a serving official, before deciding to place an employee under suspension, the competent authority is expected to be highly circumspect and to take a decision in accordance with the guidelines in the matter after assessing the entire facts of the case dispassionately. The counsel argued that in this case, such an exercise has not been gone through by the second respondent before the impugned order was passed.

6. On a scrutiny of materials on record, we are not satisfied that there is any lack of application of mind on the part of the second respondent in placing the applicant under suspension. If the second respondent had any intention to cause undue hardship to the applicant by placing him under suspension, he could have done it the moment the criminal investigation commenced. That was not done. Though the criminal investigation commenced in 1990 and though a charge was laid before court later the second respondent did not place the applicant under suspension till July 1994. In July 1994 when it was decided to initiate disciplinary proceedings against the applicant, the impugned order of suspension was issued. It cannot be disputed that the paramount consideration in placing an officer under suspension would be public interest. In 1989 10 ATC, it was so observed by a bench of this Tribunal. Learned counsel for the applicant himself has sought reliance on this judgement.

7. If the competent authority decides that the continuance in service of an officer who is suspected to have been party to a conspiracy and creation of bogus permits for which initiation of disciplinary proceedings is contemplated would not be in public interest, can it be said that the decision is arbitrary and taken without application of mind? We do not think so. Learned counsel

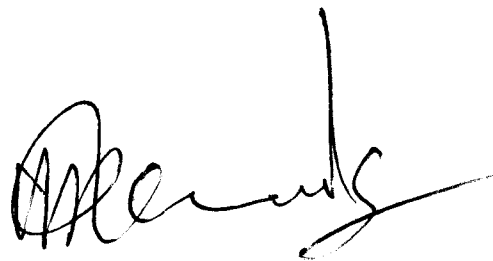


6

argued that a reading of the appellate order would establish that the decision to place the applicant under suspension was influenced by the report of the CBI and that alone is sufficient to find that the competent authority did not apply its independent mind before passing the impugned order. We are unable to accept this argument also. While considering the entire circumstances of the case, if the advice was also taken into consideration, that alone would not show lack of application of mind but would only disclose application of mind to all the aspects including the report. We do not propose to deal with the gravity of the criminal charge or the departmental charge-sheet, for, any such observation may prejudice the case of either side. Suffice to say that we do not find even prima facie any justification for judicial intervention with the impugned order. Hence the application is rejected under section 19 (3) of the Administrative Tribunals Act, 1985.



(K.Muthukumar)  
Member(A)



(A.V.Haridasan)  
Vice Chairman(J)

aa.