

Central Administrative Tribunal
Principal Bench: New Delhi

OA No: 1326/96

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New Delhi, this the 2nd day of June, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)
Hon'ble Shri S.P. Biswas, Member (A)

Bhoop Singh UDC No. 14217605
of 2 AHQ Sig Regiment Meerut(UP)
under the Organisation of AHQ
Signals Signal Enclave,
New Delhi.
(By Advocate: Shri VPS Tyagi)

...Applicant

Versus

1. Union of India through
Secretary,
Ministry of Defence,
New Delhi.
2. Director General of Signals,
Signals 4 (C) General Staff,
Br. DHQ PO New Delhi.
3. Commandant AHQ Signals
Signals Enclave New Delhi.
4. Commanding Officer,
2 AHQ Sig. Regiment,
Meerut Cantt (UP)

...Respondents

(By Advocate: Shri B.K. Aggarwal)

O R D E R (ORAL)
(Dr. Jose P. Verghese, Vice-Chairman(J)

This OA has been filed by the petitioner seeking the relief of quashing the suspension against the him as well as the pending inquiry. The pleadings in this case are complete. Heard both the parties.

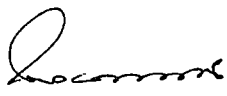
With regard to the pending inquiry, it was submitted that the petitioner has been suspended by an order dated 18th October, 1994 and thereafter the inquiry started only on 2.4.1996. There are allegations and counter allegations in these pleadings. No sufficient grounds raised, that necessitates our interference in the pending enquiry. We are of the view that the respondents


shall complete the disciplinary proceedings within four months from the date of receipt of this order to which the learned counsel Shri B.K. Aggarwal, appearing on behalf of the respondents has no objection. The learned counsel for respondents further states that the disciplinary proceedings can be completed only if the petitioner cooperate with the proceedings. We, therefore, direct the petitioner, not to create any hurdle and shall fully cooperate with the proceedings so that the same may be completed within the stipulated time. (6)

With regard to the order of suspension passed on October 18, 1994, learned counsel for the petitioner submits that the same was liable to be reviewed and enhanced subsistence allowances are to be paid. It was stated by the respondents' counsel that the review has been done, but enhanced subsistence allowance has not been paid to the petitioner. Learned counsel for the petitioner disputed this fact and further alleged that the order of suspension was not passed by an authority competent to do so. According to him it is the Commandant who is the disciplinary authority while order of suspension was wrongly passed by the Commanding Officer himself, believing himself to be the disciplinary authority, as is seen on the face of the order. In reply to show cause notice, the respondents stated that even though the order of suspension is passed by the Commanding Officer, subsequent approval of the Commandant has been taken. We have perused the record and we find that the order placing the petitioner under suspension dated 18.10.1994 is not in accordance with rules since the said order is passed by the Commanding Officer himself, stating himself to be the disciplinary authority. Had he passed the said order with the prior

approval/authority of the Commandant, it would have been in accordance with rules. The respondents in their reply only stated that subsequent approval was taken from the Commandant. Petitioner disputes this fact and no record has been produced before us by the respondents. In our view this is a fit case to revoke the suspension in the circumstances of the case but we also order that this revocation shall be conditional, to the cooperation of the petitioner with the enquiry officer to complete the inquiry within the next four months. In case any delay is found to be attributable to the petitioner, the respondents are given liberty to approach this court by way of an MA to get this order, relating to suspension, modified so that the respondents may comply with the direction now being passed against them to complete the proceedings within four months from the date of receipt of this order.

With these above directions, this OA is finally disposed of with no order as to costs.


(S.P. Bhowas)
Member - (A)


(Dr. Jose P. Verghese)
Vice Chairman (J)