

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-145/96

New Delhi this the 2nd of April, 1997.

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

Shri Mohinder Singh,
R/o D-55, Pushpanjali,
Pitampura, New Delhi. Applicant

(through Sh. H.B. Mishra alongwith Sh. A.K. Mishra)

versus

1. Lieutenant Governor,
Government of National Capital
Territory of Delhi,
Raj Niwas, Delhi.
2. The Chief Minister,
Government of National Capital
Territory of Delhi,
Shyam Nath Marg, Delhi.
3. The Chief Secretary,
Government of National Capital
Territory of Delhi,
5, Shyam Nath Marg, Delhi.
4. The Commissioner-cum-Secretary,
Transport Department, Government of
National Capital Territory of Delhi,
5/9, Under Hill Road, Delhi.
5. The Addl. Director (Transport),
Transport Department,
Government of National Capital Territory
of Delhi, 5/9, Under Hill Road, Delhi.
6. Shri Mohan Singh,
Enforcement Officer,
Incharge, Loni Zone, New Delhi,
Transport Department, Government of
National Capital Territory of Delhi,
Delhi. Respondents

(through Shri Rajinder Pandita, advocate)

ORDER

delivered by Hon'ble Dr. Jose P. Verghese, V.C.(J)

This is a second round of litigation against the same order of suspension and the applicant had approached this Tribunal on a previous occasion against the same impugned order by OA-1426/95 which was disposed of on 9.8.1995. The applicant in this case was placed

under suspension vide order dated 15.5.1995. He filed the previous O.A. on the ground that the impugned order was not issued by an authorised officer, the continued retention of the applicant under suspension is against the rules, the representation made by the applicant against the suspension order has not been disposed of inspite of reminders and that the impugned order of suspension is mala fide and for extraneous consideration.

2. This Tribunal passed an order in the previous O.A. on 9.8.95 wherein it was stated that the applicant has filed the said O.A. on the grounds just mentioned herein above and he had also alleged mala fide against the entire department. A copy of the said order made available to the Tribunal in the second O.A. is so illegible that it is impossible to make out what exactly was held in the said O.A. but it is feebly possible to make out that this Tribunal did not find any reason to admit the said application and proceeded further and it was rejected. It was also observed that the applicant had urged to the Tribunal without waiting for the result of his representation. If after waiting for a reasonable time and the representation is still not disposed of, the applicant was given liberty to seek appropriate relief. The applicant seems to have approached this Tribunal second time since no reply to his representation was forthcoming by January, 1996 even though the order of this Tribunal in previous O.A. was passed on 9.8.1995.

(JY)

3. The first ground the applicant has taken to challenge the impugned order is that the impugned order has not been issued by the competent authority. According to him the competent authority is the appointing authority and the suspension order has not been issued by him. In reply to the said contention, the respondents have stated that the impugned order of suspension was rightly issued under the signatures of Sh. K.S. Wahi after obtaining necessary approval of the Chief Secretary of Delhi being the competent authority. In view of this reply, we are satisfied that the impugned order is passed by the appointing authority being the competent authority to issue such orders.

4. The second contention raised in the application is that, assuming the necessary order of suspension is in order, the fact that there was no review of the order especially with a finding that the continued retention of the applicant under suspension is necessary after six months and in the absence of such findings review of the suspension order has become illegal. In order to support this, the applicant has annexed true copy of the order of this Tribunal dated 16.2.1989 passed in OA-873/88 in the matter of M.M. Pichare Vs. Centre for Cellular and Molecular Biology and others reported in 1989(2) SLR 258. The applicant has also relied upon a decision of the Madras Bench of Central Administrative Tribunal dated 27.10.1986 in the matter of D. Mangaleswaran Vs. Commissioner of Income Tax, Tamil Nadu and Another reported in 1987(2) ATC 828. The cases cited, do state that under the circumstances therein the

continued retention of the applicant in the said cases without review order in accordance with the guidelines, is illegal while such ratio is not applicable to the case at hand. Respondents have reviewed the suspension of the applicant on 6.2.1996 and the review order is available at page-115 of the paperbook and in the circumstances, the second ground also must fail. The applicant then contended that since no chargesheet was filed within the first six months of the suspension order, the suspension order need to be declared as invalid and directed to be revoked. We also find that the chargesheet has been issued on 4.3.1996 and in view of the issuance of the chargesheet in March, 1996 and the fact that the disciplinary proceedings are going on against the applicant and the suspension order has been issued with a view to proceed with the disciplinary proceedings, we are not inclined to set aside the suspension order on the ground of a short delay of issuance of chargesheet.

5. The applicant then attempted to make various other ground such as mala fide or extraneous consideration and lack of application of mind. The applicant has not succeeded making any of these grounds except that he has pointed out certain newspapers reports that has come out in the daily newspapers of Delhi; he argued that the suspension order of applicant alongwith 15 others, has no relevance to the facts stated in the said report. We are unable to agree with the contentions of the applicant and quash the suspension order since we cannot be called upon to appreciate these defences at

(P)

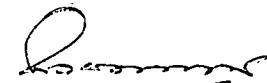
this stage and the applicant can take all these allegations as defence at the proper time in proper forum.

6. None of the grounds urged by the applicant has been found sufficient for this court to interfere in the suspension order issued against the applicant. Hon'ble Supreme Court in the case of U.P. Rajya Krishi Utpadan Mandi Parishad Vs. Sanjiv Rajan reported in 1993 Suppl.(3) SCC 483 broadly gives the circumstances in which this Tribunal can interfere against a suspension order. In the light of the said decision and in quite a number of other decisions of the Hon'ble Supreme Court, the jurisdiction of this Tribunal to interfere in the order of suspension has been stated to be very limited. We would have interfered, if the applicant had been able to show that the suspension order is passed mala fide or it is passed by an authority who is not competent to issue the said order or the preconditions prescribed by the relevant rule are ex facie not shown to be satisfied, or the order of suspension is punitive on the face of it or becomes punitive in course of time because the purpose of making it viz. to conduct disciplinary proceedings is not achieved on account of failure to serve a chargesheet or on account of inordinate delay in completing the proceedings.

7. The applicant has attempted almost all these grounds and as stated above, we are not satisfied with

any of the above grounds have been made out by the applicant.

8. In the circumstances, the O.A. is dismissed with no order as to costs.



(S.P. Biswas)
Member(A)



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

/vv/