

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench
NEW DELHI

O.A. No. 1753 of 1996

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New Delhi, dated this the 6th January, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALI, MEMBER (J)

Shri Mahendra Doshi,
Asst. Narcotics Commissioner,
Prabhu Krupa,
Gunati Yot,
Vallabh Vidyanagar-388120
GUJARAT. ... APPLICANT

(By Advocate: Shri C. Hari Shankar)

VERSUS

1. U.O.I. through
the Secretary,
Dept. of Revenue,
Ministry of Finance,
North Block,
New Delhi-110001.
2. The Dy. Narcotics Commissioner,
Central Bureau of Narcotics,
Neemuch,
MADHYA PRADESH. ... RESPONDENTS

(By Advocate: Shri R.R. Bharti)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Applicant seeks revocation of (i) the impugned order dated 25.9.95 (Ann. A-1) rejecting his representation for revocation of suspension and (ii) the impugned order dated 21.4.95 (Ann. A-6) placing him under deemed suspension on 2.6.94.

2. The applicant who is an I.C.C.E. Service (Group A) officer, while posted as Asst. Narcotics Commissioner, Neemuch was detained under COFEPOSA Act, 1974

w.e.f. 2.6.94 for his alleged involvement in the smuggling of three consignments of ball bearing (total value of Rs.5 crores) pursuant to the orders dated 30.5.94 passed by the Joint Secretary, Govt. of India. He challenged the detention order in the Gujarat High Court who by their judgment dated 6.9.94 ^{notified his release} on the ground that certain documents which had been taken into consideration by the detaining authority for the grounds of detention had not been supplied to the applicant. As the detention period exceeded 48 hours, he was deemed to have been placed under suspension by impugned order dated 2.6.94 in terms of Rule 10 (2)(a) CCS (CCA) Rules. The applicant's case was reviewed by the Disciplinary Authority (President), who, considering the background of the case decided that the applicant will continue to remain under suspension till investigations are completed, and his case would be considered thereafter. The applicant represented for enhancement of his subsistence allowance and revocation of his suspension. His subsistence allowance has been enhanced by 50% vide impugned order dated 25.9.96 but the prayer for revocation of his suspension has been rejected against which this O.A. has been filed.

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3. The main ground urged by the applicant's counsel is that once the detention orders have been set aside by the Gujarat High Court, the basis of suspension has ceased to exist and hence the deemed suspension was manifestly illegal and appears to have been passed in ignorance of the Gujarat High Court's judgment.

4. We have heard applicant's counsel Shri Hari Shankar and the respondents' counsel Shri Bharti. We have also perused the materials on record and given the matter our careful consideration.

5. Shri Hari Shankar has relied upon the ruling in Hem Chander Vs. State of Haryana & Ors. 1995 (5) SLR 45 when the Punjab & Haryana High Court has held that as per Rule 7.5 of Punjab Civil Services Rules Vol. I Part I the period of suspension period had to be upto the period of detention. That ratio which was applicable to the facts and circumstances of that particular case including that particular Rule 7.5 Punjab Civil Services Rule Vol. I Part I has no application to the facts and circumstances of the present case. Respondents' counsel has invited our attention to the Hon'ble Supreme Court's judgment in U.P. Krish Utpadan Mandi Parishad & Ors. Vs. Sanjiv Rajan (1993) 25 ATC 764 deprecating the practice of interdicting suspension orders at

interlocutory stages and holding that in judicial review, courts should not ordinarily interfere with suspension orders unless passed malafide and without their being even a *prima facie* evidence connecting the delinquent with the misconduct in question.

6. In the present case no malafides have been alleged, and there are no materials for us to hold that *prima facie* the applicant was not connected with the misconduct in question. The Gujarat High Court has struck down the detention orders not on the ground that there were no materials to connect the *Applicant* with the misconduct alleged, but because of non-supply of documents which *impaired* his right to represent against his detention effectively.

7. Under the circumstance we decline to interfere in this O.A. at this stage, and dispose of the same by directing the respondents to complete their investigation with all possible expedition and thereafter proceed strictly in accordance with law. *No costs*

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

/GK/

S.R. Adige
(S.R. Adige)
Member (A)