

Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.380/96

New Delhi this the 22nd day of April 1996.

Dharam Pal  
Peon  
M.L.O. (HQ) Branch  
Transport Department  
5/9 Under Hill Road  
R/o 36/3081 Beadonpura, Karol Bagh  
New Delhi.

...Applicant

(By Advocate: Sh. H.B.Mishra)

Versus

1. Govt. of NCT, Delhi through  
The Lt. Governor  
Raj Niwas, Delhi.

2. The Chief Secretary  
Govt. of NCT, Delhi  
5, Sham Nath Marg  
Delhi.

3. The Commissioner  
Transport Department  
Govt. of NCT Delhi  
5/9 Under Hill Road  
Delhi.

4. The Additional Director  
Transport Department  
Govt. of NCT Delhi  
5/9 Under Hill Road  
Delhi.

5. The Motor Licencing Officer, MLO (HQ) Branch  
Transport Department  
Govt. of NCT Delhi  
5/9 Under Hill Road  
Delhi.

..Respondents.

(By Advocate: Sh. Rajinder Pandita)

O R D E R (oral)

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

Shri Dharampal, peon in the office of the Motor Licencing Office (HQ) Branch of Transport Department of the NCT, Delhi is aggrieved by the action of the respondents in not allowing him to perform his duties on the basis of an order dated 31.3.95 of the fourth respondent (Annexure A-2) placing one Shri Dharampal, LDC under suspension invoking powers under Sub Rule (1) of Rule 10 of the CCS(CC&A) Rules 1965 in contemplation of a disciplinary proceedings. It is alleged that no disciplinary proceedings at all could be said to be under contemplation against the applicant and the attempt of the respondents is only to harass the applicant and to shield Sh.

Dharampal, LDC. The applicant, therefore, prays that the impugned order may be declared void and that the respondents be directed to allow him to perform his duties and to pay him full pay and allowances.

2. The respondents have raised a preliminary objection that the application is not maintainable as the applicant has not exhausted the departmental remedies. On merit, the respondents contend that the impugned order was passed owing to the applicant's involvement in a forgery case which is pending before the Metropolitan Magistrate, Tis Hazari, Delhi and, therefore, the applicant is not entitled to any relief prayed for. The respondents admit that there is an error in describing the applicant in the impugned order as LDC which he is only a peon, but they contend that this defect having been rectified by issuing a corrigendum on 27.4.95 (Annexure R-III), the applicant cannot seriously contend that the impugned order does not relate to him.

3. We have heard the counsel on either side and have also perused the materials on record. A reading of the impugned order (Annexure A-2), the Corrigendum issued by the respondents (Annexure R-III) and the reply filed by the respondents leads to an irresistible conclusion that the impugned order was passed in haste without any application of mind. Leaving aside the defect in describing the applicant as LDC instead of peon which was rectified later by order dated 27.4.95 (R-III) the ground cited in the impugned order for placing the applicant under suspension was that disciplinary proceeding against him was under contemplation. The respondents in their reply have not stated that a disciplinary proceeding is contemplated against the applicant. Their contention is that the impugned order was issued as a criminal case against the applicant is pending before the Metropolitan Magistrate. The impugned order of suspension having been passed in contemplation of a disciplinary proceeding <sup>when</sup> which it is challenged on the ground that no disciplinary proceedings can be said to be under contemplation against him cannot be sought to be justified on a different ground ~~and~~ that a criminal investigation or case is pending. It was open for the Competent Authority to place the applicant under suspension if it considered it was necessary to do so for the

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reason that a criminal case <sup>was</sup> pending. That was not done. As no departmental proceeding has either been initiated or, even been <sup>stated</sup> to be in contemplation, we are of the considered view that the impugned order cannot be sustained.

4. As the issue involved is quite simple and as suggested by the counsel on either side, we ~~propose to~~ dispose of this application formally at this stage.

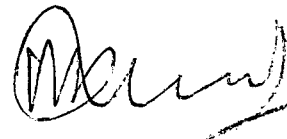
5. In view of what is stated above, we set aside the impugned order and direct the respondents to reinstate the applicant forthwith and to pay full pay and allowances for the period he was kept under suspension. However, it is made clear that if the respondents consider it necessary to place the applicant under suspension on account of the <sup>pending</sup> ~~pending~~ of criminal case against him, they are at liberty to do so by passing a proper order.

No costs.

  
(R.K. Ahooja)

Member (A)

aa.



(A.V. Haridasan)

Vice Chairman (J)