

Central Administrative Tribunal
Principal Bench: New Delhi

RA 126/97
in
OA 1973/96

(A5)

New Delhi, this the 16th day of May, 1997

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

State of Assam,
through its Officer
on Special Duty,
New Delhi.

...Petitioner

(By Advocate: Sh. Raju Ramchandaran, Sr. Advocate
Sh. Ravindra Bhat
Sh. Pradeep Goswami
Ms Sunita Hazarika
Ms Hetu Arora)

-Versus-

Niranjan Ghose,
Secretary to Govt. of Assam,
temporarily resident at
Assam Bhawan, New Delhi. Respondent

(By Advocate: Shri K.B.S.Rajan)

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

The review applicant herein is the State of Assam against the judgement and order of this court passed on 21.3.1997. Recorded finding of this court was that the order of suspension was punitive and the same as a consequence has been quashed while the respondents were permitted to hold the inquiry on the alleged violation of rules within a stipulated time. The basic premises on which our judgement rested was the consideration that discretion to disobey as a right of the government servant, a principle handed down to us from the 'Father of the Nation'.

It is under these circumstances we had quashed the order of suspension on a finding that it was punitive, and after giving liberty to the respondents to proceed with the

disciplinary inquiry against the petitioner in accordance with Rules on the basis of the charge-sheet which had been already issued.

(A6)

The directions given in pursuance to the said basic premises included that the payment of subsistence allowance shall be paid forthwith, the disciplinary proceedings shall be completed within eight weeks so that petitioner's retirement may smoothly takes place and finally the "headquarters" were directed to be outside the State of Assam. We had allowed the continuation of disciplinary proceedings in accordance with Rules and not by any other extraneous considerations. In view of this we would allow this Review Petition to the extent mentioned below with the following clarifications to our previous order dated 21.3.1997.

(i) It was pointed out to us by the learned senior counsel Sh. Raju Ramchandaran, appearing on behalf of the review applicant, that at the end of para 2 it was stated that these are admitted facts at the instance of the respondents. A close reading of para 2 shows that the 'admission' refers only to what is in the content of the application the petitioner made to the UOI and that is admitted by the respondents and not the contents of the application. What is admitted is that the petitioner has made such submissions to the Union of India.

(ii) The counsel also brought to our notice that in para 8 it was stated that none of the respondents denied these facts contained in para 3 to 7 of the judgement. It is stated that these statements



needs a clarification/ modification. What is intended to be said is that the respondent no.1 did not deny these facts rather what is stated by respondent no. 2 is further stated in the same para 8 of the judgement.

(A7)

(iii) The respondents also requested a clarification on direction no. 3 in para 19 of our judgement stating that the hospitalisation of the petitioner was not in their knowledge. We would like to state that the direction given in clause (3) is mainly for the purpose of payment of subsistence allowance which is, in any event, the duty of the respondents irrespective of the fact that whether the petitioner is hospitalised or not. But the part of the direction which contains reference to an unpaid salary, we would clarify that the same shall be paid in accordance with Rules.

(iv) The direction contained in clause (4) of para 19 also needs some clarification for the reason that eight weeks time granted to the respondents to complete the disciplinary proceedings can now be said to have been complete only by 4.6.1997 since a certified copy of the orders was received by them on 4.4.1997 for the purpose of this direction and for the purpose of stating a defence in Contempt Petition if and when filed. Our orders shall be read as to provide an opportunity to the respondents to hold disciplinary proceedings by 4.6.1997.

(L)

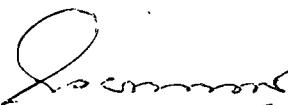
The counsel also requested an extension of time for holding inquiry for a period of three to four months for the reason that since the period given is very short and they were under the impression that they may not be able to complete the inquiry before 30.5.1997 in the circumstances stated above. We are not inclined to give any extension of time but if at all we grant an extension of time it will be subject to condition that the Headquarters shall be at Delhi. In case the respondents wishes to take advantage of the liberty being given by us and complete the disciplinary proceedings during the extended time of four months, they may do so with a condition that the said inquiry shall be held in the circumstances of the case in Delhi only.

(AS)

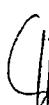
It is further clarified that in case the State of Assam still wants to continue the proceedings against the petitioner even after the date of superannuation, it shall be in accordance with Rules subject to a condition again that the Headquarters shall be in Delhi in any event.

With these above direction, this Review Petition is disposed of.

Out today.



(S.P.Biswas)
Member (A)



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

Ahuja