

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1449/97

New Delhi this the 31st Day of July 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)
Hon'ble Shri K. Muthukumar, Member (A)

Shri J.S. Goel,
Son of Shri Sultan Singh,
Resident of N-171, Sector 8,
R.K. Puram,
New Delhi-110 012. Petitioner

(By Advocate: Shri M.M. Sudan)

Vs.

1. Union of India,
Through the Secretary,
Ministry of Welfare,
Shastri Bhawan,
New Delhi-110 001.
2. Director National Institute of
Social Defence,
Ministry of Welfare, West Block-1,
Wing 7, R.K. Puram,
New Delhi-110 006 Respondents

(By Advocate: Ms. Protima Gupta)

ORDER (Oral)

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The case of the applicant is that he has been suspended earlier by an order dated 12.10.93 which was revoked on 18.5.95. Thereafter a fresh suspension order has been issued on 20.5.97 which according to him is also because the contemplated criminal case while is pending against him. At the time when the original suspension order was passed that was also based on a contemplated criminal proceedings. The "contemplation" has now become actual, and this fact is substantiated by a copy of the challan produced by the ld. counsel for the respondents. In the circumstances whether the second suspension order is bad as the one being passed without application of mind and without giving regard to the guidelines issued by the respondents themselves.

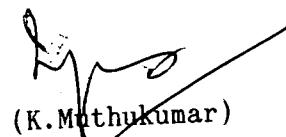
The 1d. counsel for the respondents says that under Rule 10(1)(b), the respondents are empowered to keep the applicant under suspension when a criminal case is pending. We are of the *prima facie* view that in the circumstances of this case, it will be a technical way of looking at this provision. It is true that Rule 10(1)(b) permits the respondents to keep the applicant under suspension when the criminal proceedings are pending but at the same time, while passing an order of suspension, now, which invites several adverse repercussions on the career of the applicant who is to superannuate within the next 10 months, the respondents had an added responsibility as well to decide the matter with proper application of mind and giving weightage to all the peculiar circumstances of a given case. In the absence of a speaking order, we are unable to find whether the respondents have applied their mind while passing this second suspension order.

2. For the purpose of finding whether the respondents have applied their minds, we have perused the records and a letter of CBI addressed to the respondents stating that the petitioner has to be placed under suspension. Since no reply has been filed we have scrutinised the records of the case to find out whether the guidelines issued by the Government of India with regard to the issuance of the suspension order in this case on second suspension order has been followed by the respondents before issuing the impugned order or not. We are satisfied from looking into the files that their own guidelines have not been followed in the present

case. No such noting is on the file as to the fact of specific consideration in accordance with the guidelines. The fact of petitioner's pending superannuation has also not been considered in the entire file. In the circumstances we have no option but to come to the conclusion that the case of the petitioner has not been considered in accordance with the guidelines and circumstances of this case and in the light of the guidelines issued by the Government of India.

3. Therefore, in the interest of justice we quash the order of suspension subsequently passed on 20.5.1997 giving liberty to the respondents to pass a fresh order within 15 days of the receipt of this order considering the entire facts and circumstances of the case especially the fact that the petitioner is about to retire within next eight months and whether the petitioner is willing to go on leave and also the guidelines issued by the Government of India in this regard. The order passed in such circumstances shall be communicated to the petitioner forthwith and the petitioner is given liberty to take appropriate action in accordance with the fresh cause of action. In the event no further order is passed on the basis of the liberty given by this order within 15 days after the

receipt of the copy of this Order, the respondents shall permit the petitioner to retire in peace, subject to the outcome of the case pending in the Court. This O.A. is disposed of.



(K. Mathukumar)

Member (A)



(Dr. Jose P. Verghese)

Vice Chairman (J)

Mittal