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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

~~ HON. SHRI R.K. AHOOJA, MEMBER (A)

O.A. NO.149/1997

NEW DELHI, THIS 27 DAY OF AUGUST 1997

MRS. S.K. MANI
R/o 207/C-2, Panchkuian Road
NEW DELHI

...APPLICANT

(By Advocate - Shri B.S. Mainee)

VERSUS

UNION OF INDIA, through

1. The General Manager
Northern Railway
Baroda House
NEW DELHI

2. The Medical Director
Northern Railway Central Hospital
Connaught Place
NEW DELHI

...RESPONDENTS

(By Advocate - Shri Rajeev Sharma)

ORDER

Disciplinary proceedings were initiated against the applicant who was working as a Nursing Sister in Northern Railway Central Hospital, New Delhi, on account of unauthorised absence which resulted in the order of dismissal in terms of order dated 25.6.1991. The applicant challenged the order of dismissal and the order of rejection of appeal by filing an O.A. No.184/92. Vide its order dated 22.7.93 (A-2), the Tribunal held that the Divisional Medical Officer who had passed the order of dismissal had no jurisdiction and hence the order of dismissal was void. The Tribunal also ordered that the petitioner shall be reinstated in service and given her entire back wages, if she satisfies the authorities concerned that she was not employed gainfully elsewhere

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between the period when the order of dismissal was passed and the order of reinstatement is passed. The respondents thereafter passed an order on 3.10.1994 deeming the applicant to have been placed under suspension w.e.f. 25.6.91 and further enquiry into the unauthorised absence of the applicant was also initiated. The enquiry has since been completed and the report submitted by the enquiry officer on 10.5.96. The applicant had also submitted a reply to the enquiry report vide A-9. Her grievance is that the respondents have not passed a final order as yet and they are paying her subsistence allowance only at the rate of half of the salary and have not enhanced the same by 50% as per rules. She has approached the Tribunal now for a direction to the respondents to enhance the subsistence allowance on the expiry of three months from the date of suspension, that is, 25.6.91, and pay her all the arrears of difference between the normal rate and the enhanced rate of subsistence allowance w.e.f. 25.9.1991.

2. The respondents in their reply state that all the dues of suspension allowance were paid to the applicant w.e.f. 1.7.1991 and that her suspension allowance has also been enhanced w.e.f. 24.1.1997. They also state that the applicant has been dismissed from Railway service w.e.f. 7.2.1997.

3. I have heard the counsel on both sides. Shri B.S. Mainee, 1d. counsel for the applicant, submitted that the applicant having been placed under suspension from 25.6.1991 was entitled to have her case reviewed after the expiry of three months for enhancement of the

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subsistence allowance. It was open to the respondents to deny the enhancement in case they came to the conclusion that the delay in completion of the enquiry was due to the applicant. In the present case, however, the respondents took no action whatsoever to review the case till the present O.A. was filed and enhanced the subsistence allowance only w.e.f. 30.1.1997. The ld. counsel for the respondents, Shri Rajeev Sharma, on the other hand submitted that now the applicant has been dismissed from service and the period of suspension would necessarily be period not spent on duty. There could therefore be no question of any enhancement of the subsistence allowance with retrospective effect.

4. Having carefully considered the matter, I am of the view that the applicant is not entitled to the relief she has sought. The present O.A. has been filed only on 21.1.1997. The order placing her under deemed suspension w.e.f. 25.6.1991 was passed on 3.10.1994. If the applicant was aggrieved by the inaction of the respondents in not reviewing her case for enhancement of the subsistence allowance, then it was open to her to approach the Tribunal soon thereafter. She has chosen to wait till January 1997. The respondents have at the same time reviewed her case and granted her enhanced subsistence allowance but only with prospective effect.

5. In the facts and circumstances of the case, I partly allow the O.A. with a direction that the respondents will review the case of the applicant for enhancement of the subsistence allowance and pass a speaking order. In case it is concluded that she is entitled to enhancement of subsistence allowance from any time after the expiry of three months after suspension,

then the applicant will be entitled to the arrears but only from a date one year prior to filing of this O.A., that is, 20.1.1997.

6. The O.A. is disposed of accordingly. No costs.

R.K. Ahuja
(R.K. AHOOJA)
MEMBER (A)

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