

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(9)

O.A. No. 1754 of 1997 Decided on: 3.3.98

Dr. B.N. Mittal

Applicant(s)

(By Advocate: Mrs. Meera Chhibber)

VERSUS

U.O.I. & Anrs.

Respondents

(By Advocate: Shri P.H. Ramchandani)

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HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or not? YES
2. Whether to be circulated to other Benches of the Tribunal? NO

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(S.R. ADIGE)
VICE CHAIRMAN (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 1754 of 1997

(20)

New Delhi, dated the 3rd March 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

Dr. B.N. Mittal,
S/o late Shri B.R. Mittal,
R/o D-II/164,
Wewt Kidwai Nagar,
New Delhi.

... APPLICANT

(By Advocate: Mrs. Meera Chhibber)

VERSUS

1. Union of India through
the Secretary,
Ministry of Health & F.W.,
Nirman Bhawan,
New Delhi.

2. Director Genral of Health
Services,
Ministry of Health & F.W.,
Nirman Bhawan,
New Delhi.

... RESPONDENTS

(By Advocate: Shri P.H. Ramchandani)

JUDGMENT

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

Applicant seeks the relief contained in Para 8 of the O.A.

2. This O.A. came up for hearing on 24.12.97 and after hearing both parties by order dated 5.1 .98 it was held that any adjudication by us on the merits of the case before respondents were given an opportunity to conduct a review as to whether applicant was to continue to be kept under suspension or not was premature. Accordingly respondents were directed to review applicant's suspension in terms of their own

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instructions before he superannuated and pass appropriate orders under intimation to him. The case was ordered to be listed on

29.1.98.

3. On 29.1.98 when the case came in the presence of both parties respondents' counsel Shri Ramchandani stated that purusant to the orders dated 5.1.98, respondents were likely to issue the relevant orders during the course of that day. The case was, therefore, ordered to be listed on 5.2.98.

4. Respondents issued review orders on 29.1.98, a copy of which is taken on record holding that the grounds for suspension of applicant were still valid and the Disciplinary Authority had decided that applicant's suspension would continue.

5. Meanwhile applicant retired on superannuation on 31.1.98.

6. Various arguments have been advanced by Mrs. Chhibber to assail the suspension orders dated 9.7.96 and the review order dated 29.1.98. It has been asserted that the suspension order was passed, and unjustifiably continued, despite applicant being completely innocent and cooperating fully with the authorities. It has been contended that the continuance of suspension has been in violation of Govt. instructions contained

in paragraph 11 and 12 in Chapter 2
(suspension - A Digest) of Swamy's
Compilation of CCS (CCA) Rules. It has also
been argued that the review order dated
29.1.98 is a bald, cryptic order which give
no reasons for continuation of the suspension
order and therefore betrays non-application
of mind. Certain judgments have also been
cited in support of these contentions.

7. On the other hand Shri Ramchandani
has argued that having regard to the
~~seriousness~~ ^{the} of allegations against applicant,
his suspension by order dated 9.7.96 was
fully justified. It was stated by him that
in Sept. 1997 itself orders of the competent
authority had separately been obtained to
attach various properties belonging to
applicant, and it must therefore be deemed
that applicant's case had been reviewed, and
yet in compliance with the Tribunal's
directions dated 5.1.98 his case had again
been reviewed, and by orders dated 29.1.98
the continuance of his suspension was
considered necessary as the grounds for his
suspension were found to be still valid.

8. We have given the matter our careful
consideration and have also perused the
Health Ministry's File No. C-13013/27/96
Vigilance in which the decision to suspend
the applicant was taken and in which his case
was reviewed. We note that applicant was
suspended pursuant to a regular case under
the relevant provision of the Prevention of

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Corruption Act being instituted against him upon an FIR being filed by CBI against him on 24.6.96 for being found in possession (after a raid conducted by CBI) of immovable assets of Rs.128.28 lakhs and movable assets of Rs.45.15 lakhs which were grossly disproportionate to his known sources of income. Thereafter the CBI registered another case against him on 10.10.96 for allegedly opening of bogus accounts ^{State} Bank Bank of Mysore, Connaught Place, New Delhi in the name of bogus firms/persons and crediting in these accounts WHO funds to the tune of Rs.98.88 lakhs. His case was reviewed in November, 1996 and respondents held that it was not desirable to revoke his suspension. Again in February, 1997 applicant appealed to the Disciplinary Authority for revocation of his suspension, upon which his case was again reviewed and as it was found that the reasons for placing him under suspension were still valid his suspension should continue. Thereupon applicant filed the present O.A. and upon our directions dated 5.1.98, respondents reviewed applicant's case yet again and have passed the impugned order dated 29.1.98 holding that the grounds for his suspension were still valid, and the same should, therefore, continue.

9. The allegations against applicant of amassing assets grossly disproportionate to his known sources of income, leading to the

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institution of criminal case against him under the relevant provision of the Prevention of Corruption Act are extremely serious and prima facie we have no reason to hold that applicant's suspension was unjustified, particularly in the context of paragraph 2.4 and 2.5 (Chapter V) of the Vigilance Manual. Furthermore the investigation of such cases takes time, and we have, therefore, no reasons to hold that merely because of the time taken, or because applicant cooperated with the authorities in regard to disclosure of the assets in his possession, or indeed because of any of the other grounds taken by him in his O.A., the continuance of his suspension was rendered illegal or invalid. Meanwhile applicant has retired upon superannuation on 31.1.98 and consequently the impugned suspension order dated 9.7.96 is no longer in operation w.e.f. that date, and hence warrants no interference at this stage.

10. During hearing Mrs. Chhibber also pressed that consequent to applicant's retirement on superannuation w.e.f. 31.1.98 during pending of the present O.A., his retiral benefits should be released to him. We notice that this relief has not been specifically prayed for in this O.A. In this connection we also note Shri Ramchandani's statement at the bar that respondents will

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proceed strictly in accordance with the rules and instructions governing such cases. In case applicant has any grievance in this regard, it will be open to him to approach the Tribunal separately through appropriate original proceedings in accordance with law if so advised.

11. This O.A. is disposed of in terms of Para 9 and 10 above. No costs.

Lakshmi Swaminathan
(Mrs. LAKSHMI SWAMINATHAN)

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(S.R. ADIGE)

Member (J) Vice Chairman (A)

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