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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2119 of 1997

NEW DELHI, THIS THE 24TH DAY OF NOVEMBER, 1997.

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN
HON'BLE MR.R.K.AHOOJA, MEMBER(A)

Shri J.S.Goel,
S/o Shri Sultan Singh,
R/o N-171, Sector 8,
R.K.Puram,
New Delhi-110022. . .

Applicant

(BY ADVOCATE SHRI M.M.SUDAN)

vs.

1. Union of India
through the Secretary,
Ministry of Welfare,
Shastri Bhawan,
New Delhi-110001.
2. Director, National Institute of Social Defence,
Ministry of Welfare,
West Block-I, Wing No.7,
R.K.Puram,
New Delhi-110066. . .

Respondents

(BY SENIOR ADVOCATE SHRI P.H.RAMCHANDANI)

ORDER

Justice K.M.Agarwal:

This O.A. was referred to the Full Bench for deciding the following two questions of law:

(i) Whether in every case of suspension,
including suspension on the basis of
pendency of criminal case involving moral
turpitude or corruption, the Government
is bound to consider factors as discussed
and directed by the Tribunal in

[Signature] O.A.No.1449/97?

(ii) Whether in the facts and circumstances of the present case the impugned suspension order dated 22.8.1997 can be said to be arbitrary or tainted with mala fides?

2. By order dated 5.11.1997, the Full Bench has answered the questions as follows:-

(i) In cases of suspension including suspension on the basis of pendency of criminal case involving moral turpitude or corruption, the Disciplinary Authority is required to consider the relevant rules and the guiding principles issued from time to time to supplement those rules, including the factors mentioned in judgement dated 31.7.97 in OA No.1449/97 to the extent that the same are applicable to the facts and circumstances of a particular case.

(ii) In the facts and circumstances of the present case (OA-2119/97), the impugned suspension order dated 22.8.97 cannot be said to be arbitrary or tainted with malafides.

3. In view of the answer to the second question referred to the Full Bench, we were and are of the view that this OA deserves to be dismissed, but the learned counsel for the applicant submitted that in spite of the answers returned by the Full Bench, the

For

following three points, based on paragraphs 5.11, 5.12, 5.13, 5.17 and 5.18 of the application and on that of paragraph iii (h) of the suspension order (Annexure A-1) survive to be answered:-

- (1) The suspension order is in the nature of punishment as urged in paragraphs 5.11, 5.12 and 5.13 of the application and, therefore, liable to be quashed;
- (2) The complainant has withdrawn the complaint, on the basis of which the disciplinary proceedings were started against the applicant, as urged in paragraphs 5.17 and 5.18 of the application; and
- (3) The opinion expressed in para iii (h) of the impugned order of suspension that the question of official being willing to go on leave is not relevant is incorrect and not justifiable in view of the specific directions of the Tribunal in earlier OA No.1449/97.

4. However, we are of the view that in view of the answer given by the Full Bench to the second question, the decision on the questions sought to be raised by the learned counsel for the applicant does not arise. Accordingly, we decline to hear the learned counsel at length on the aforesaid points.

5. In the result and in the light of the answer to the second question by the Full Bench, this

Yours

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O.A. is hereby dismissed. No costs.

Km
(K.M.AGARWAL)
CHAIRMAN

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

sns