

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2228/97

199

T.A. No.

DATE OF DECISION 30.6.98

SI Lal Chand & Ors

....Petitioner

Mrs. Meera Chhibber

....Advocate for the
Petitioner(s)

VERSUS

Union of India & Ors

....Respondent

Sh. H. L. Jad

....Advocate for the
Respondents.

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri K. Muthukumar, Member (A)

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

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 2228/97

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New Delhi this the 30th day of June, 1998

Hon'ble Smt. Lakshmi Swaminathan, Member (J).
Hon'ble Mr. K. Muthukumar, Member (A).

1. SI Lal Chand,
S/o late Shri Hazara Ram,
R/o B-61, Kiran Garden,
Uttam Nagar, New Delhi.
2. SI Prasadi Lal,
S/o Shri Shiv Dayal,
R/o Flat No. 15, Police Post
Amar Colony, Lajpat Nagar-IV,
New Delhi. Applicants.

By Advocate Mrs. Meera Chhibber.

Versus

1. Union of India, through
Commissioner of Police,
Police Headquarters,
MSO Building, I.P. Estate,
New Delhi.
2. Addl. Commissioner of Police (Ops.)
PHQ, MSO Building, I.P. Estate,
New Delhi.
3. Dy. Commissioner of Police,
IGI Airport,
New Delhi. Respondents.

By Advocate Shri H.L. Jad.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member (J).

The applicants who are working as Sub-Inspectors with the Delhi Police have filed this application on the grounds that the respondents have failed to take action to enhance their subsistence allowance after three months of their suspension, as required under FR 53 and to reinstate them after reviewing the case of their suspension.

2. At the time when the O.A. was filed, the applicants have alleged that no departmental inquiry had been initiated

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(a)

against them and the third person, namely, Inspector Ishwar Singh who was also suspended along with them has since been reinstated in service by order dated 27.6.1997 on the recommendations of the DCP (South) who had clarified that the facts in the case on the basis of which they have been suspended were very complicated. This application has been filed on 19.9.1997 and admittedly a regular DE has been ordered against the applicants by the respondents' order dated 29.9.1997. The applicants were suspended by order dated 14.10.1996 along with the Inspector Ishwar Singh who was then SHO PS Defence Colony. The respondents have submitted that the subsistence allowance of both the applicants has been increased w.e.f. 14.1.1997 by order dated 29.9.1997.

3. The main ground taken by Mrs. Chhibber, learned counsel for the applicants is that even though it is accepted that suspension is not a punishment, nevertheless continued suspension of the officers causes undue hardship to them both financially and mentally. Her contention is that after the order of suspension was passed against the applicants, no disciplinary proceedings had been instituted even after six months and they had represented against the same, requesting the respondents to reinstate them in service. Learned counsel also contends that while Inspector Ishwar Singh has been reinstated without prejudice to legal/departmental action that may follow subsequently, there was no reason or justification why the applicants should not be reinstated in similar fashion. She has alleged that Inspector Ishwar Singh was incharge of the investigation in respect of which the applicants have been suspended and they were also entitled for similar consideration for revocation of suspension and reinstatement in service immediately. The applicants have also contended that even in the

note of the DCP (South), it has been stated that the cases under investigation by the applicants were extremely difficult and complicated regarding the tenancy and ownership of the disputed property in D-4, Defence Colony which are presently pending before the competent courts. She has submitted that the respondents have acted in a most arbitrary manner and they have not reinstated the applicants because they have no God-father who could take up their cases in the same way as the case was taken up in respect of Inspector Ishwar Singh. In the circumstances, Mrs. Meera Chhibber, learned counsel, has urged that a direction may be given to the respondents to review the suspension of the applicants in accordance with the Government of India instructions, keeping in view, in particular, the order passed in the case of Inspector Ishwar Singh and other employees who are facing criminal trials ~~in criminal proceedings~~ and to declare their continued suspension as illegal, arbitrary, discriminatory and, therefore, bad in law, with directions to the respondents to reinstate them. She ~~is~~ also clarified that the applicants are prepared to face the disciplinary proceedings instituted against them after the revocation of the suspension order.

4. The respondents have filed their reply and we have also heard Shri H.L. Jad, learned counsel. They have submitted that the applicants while posted in Police Station Defence Colony have abused their powers in dealing with a property dispute at D-4, Defence Colony. According to them, one Smt. Anila Ahluwalia lodged a complaint in the Police Station vide DD entry 42-B regarding quarrel in the premises and her statement was recorded by SI Lal Chand, Applicant 1. She has stated that one Mr. Manish Jain, one of the tenants of her premises, had fraudulently grabbed her tenancy portion. Applicant 1 had conducted an inquiry on 22.4.1996. It is alleged that he did not, however,
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verify the tenancy deed and GPA of Shri J.M. Singh, a non-existing person to be the owner of the whole premises and finally disposed of the DD entry No. 42-B on the ground that FIR No. 392/96 has been registered in this regard and lodged DD No. 10 dated 2.5.1996. The respondents have alleged that this has been done knowingly and intentionally for ulterior motives which facilitated Shri Manish Jain to continue in illegal possession of Annexure portion of D-4, Defence Colony. After the registration of the case FIR No. 392/96 on 1.5.1996, the investigation was marked to Applicant 2, SI Prashadi Lal, who again is alleged to have delayed the investigation and failed to conduct the same in proper way. It is alleged that he was working in collusion and understanding with the accused persons for ulterior motive. They were accordingly placed under suspension by order dated 14.10.1996 and a departmental inquiry has been initiated against both of them on 29.9.1997 i.e. after this O.A. has been filed. As mentioned above, they have alleged that they have already enhanced the subsistence allowance of both the applicants. Shri H.L. Jad, learned counsel, has submitted a letter from the respondents dated 18.5.1998 (copy placed on record). In this letter, it has been stated that they have considered the applicants' request for reinstatement in service but they have decided not to do so at this stage of the disciplinary inquiry, in view of the nature of the allegations which involves ulterior motive of corrupt practices. He has, therefore, submitted that in the circumstances of the case, there is no substance in the contention of the applicants that their suspension should be revoked pending finalisation of the disciplinary proceedings. The learned counsel has, however, submitted that since the DE has already commenced by order dated 29.9.1997, he will have no objection if the Tribunal gives a direction to the respondents to complete the same within ^{as} reasonable time.

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5. The applicants have filed a rejoinder and also M.A. 1156/98 for bringing on record certain additional documents. The respondents have also been heard on the Miscellaneous Application. Mrs. Meera Chhibber, learned counsel, has very vehemently submitted that from these documents it is evident that the applicants had, in fact, carried out the investigation in proper manner as is evident from the relevant DD entry. She has also submitted that since the concerned parties in the dispute over the property at D-4, Defence Colony had not produced the necessary documents, in spite of the fact that they were called for by them, it was not possible for them to verify the various claims of the parties with regard to the property which in any case have been admitted as being complicated and are now pending before the competent courts for adjudication. She has submitted that there is no truth in the allegations made against the applicants. She has also submitted that as can be seen from the order dated 29.9.1997 the subsistence allowances have been enhanced only after the Tribunal gave directions on 24.9.1997. In the circumstances, she has again emphasised that continuance of the suspension is illegal and unjustified, particularly because the SHO has been reinstated who was incharge of the police station under whom the investigations were held.

6. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

7. No doubt, the order dated 29.9.1997 enhancing the subsistence allowance of the applicants is delayed ^{as it has been passed not} ~~more~~ than three months from the date of the suspension order dated 14.10.1996. However, this order enhances the subsistence allowance w.e.f. 14.1.1997. This order has been passed after the applicants have

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and ^{RE}
filed this application in pursuance of the Tribunal's order dated
24.9.1997. In the circumstances, the grievance of the applicants
that their case has not been considered for enhancement of
subsistence allowance no longer survives.

8. The other main ground taken in the O.A. is that in spite of the fact that the respondents have passed the suspension order as far back as on 14.10.1996, till this application was filed, no departmental inquiry has been initiated against them and the suspension order passed against Inspector Ishwar Singh on the same date has since been revoked on 27.6.1997. Admittedly, disciplinary proceedings have been initiated against the applicants on 29.9.1997. In the letter addressed to the learned ^{respondents} ^{RE} counsel for the respondents dated 18.5.1998, they have stated as follows:

"In this connection, it is submitted that all the suspension cases of police officials placed under suspension including the applicants SI Lal Chand and SI Parshadi Lal, are being reviewed every month as per the PHQ's circular No. 2062-2132/P.Cell (Vig.), dated 3.3.98 (copy enclosed). The request of the applicants for reinstatement in service has been considered but it is not considered fit to reinstate them in service at this stage of the D.E. in view of the nature of allegations which involves ulterior motives of corrupt practices".

9. In the note of the DCP (South) District, dated 11.1.1996, ^{RE} ~~he~~ after referring to the claims of various persons regarding ownership and possession of D-4, Defence Colony, he has stated that this case is very complicated and they have not been able to decide as to who should get the possession back and it would be better if the court of law after hearing the parties decides the matter. With regard to Inspector Ishwar Singh SHO, Defence Colony, he has also stated that there appears to be no mala fide on his part and had requested the DCP (Vigilance) to reconsider his order of suspension. It is also ^{RE}

(X)

stated that his removal from the Police Station Defence Colony after a short tenure is punishment enough for negligence, ~~negligence~~, if any, on his part and to reconsider the case.

10. The contention of Mrs. Meera Chhibber, learned counsel, that the applicants are entitled for similar revocation of their suspension because of the complicated nature of the facts of the case on the face of it, is not a sufficient ground to order revocation of the suspension order. In the letter dated 18.5.1998 referred to above, reference has been made to allegations against the applicants involving ulterior motive of corrupt practices which does not appear in the case of Inspector Ishwar Singh. In such cases, each case will have to be decided on the basis of its own facts and circumstances (See the observations of the Full Bench judgement of the Tribunal in *J.S. Goel Vs. Union of India & Ors.* (OA 2119/97), decided on 5.11.1997. In the present case, departmental proceedings have also been initiated against the applicants on 29.9.1997 and, therefore, taking into account the totality of the facts and circumstances of the case, it cannot be stated that the respondents' action in rejecting the applicants request for reinstatement in service after revocation of their suspension is arbitrary or against the relevant rules/guidelines issued by the Government of India justifying any interference in the matter. In the facts and circumstances of the case, the ~~proper~~²⁸ of a direction to the respondents to revoke the suspension order and for reinstatement of the applicants in service immediately, is also not warranted. However, since it is already about 9 months since initiation of disciplinary proceedings in September, 1997, we deem it proper to direct the respondents to complete the proceedings in accordance with law, for which the applicants shall also cooperate, within three months from the date of receipt of a

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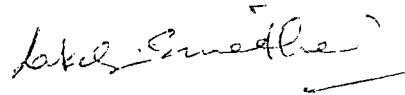
copy of this order. Thereafter, the disciplinary authority shall also pass the necessary orders regarding the intervening suspension period.

II. In the result, the prayer for immediate revocation of the suspension order and reinstatement in service is rejected. The respondents are directed to complete the disciplinary proceedings pending against the applicants, as directed above.

No order as to costs.



(K. Muthukumar)
Member (A)



(Smt. Lakshmi Swaminathan)
Member (J)

SRD