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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-738/97

New Delhi this the 30th day of June, 1997.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Sh. S.P. Biswas, Member(A)

Shri J.K. Rode,
S/o Sh. Saroop Chand Roade,
R/o 11/208, Sector-3,
Rajinder Nagar,
Sahibabad, Distt. Ghaziabad,
U.P. Applicant

(through Sh. B.S. Charya, advocate)

versus

1. The General Manager,
Northern Railway Headquarters
Office, Baroda House,
New Delhi.
2. Union of India,
Ministry of Railways,
Government of India,
Rail Bhavan, New Delhi
through its Secretary.
3. The Chief Commercial Manager,
Northern Railway Headquarters
Office, Baroda House,
New Delhi. Respondents

(through Sh. Rajeev Sharma, advocate)

ORDER(ORAL)

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

The applicant is aggrieved by the impugned suspension order dated 30.5.95. The contention of the applicant is that as per the respondents own order at P-5, the respondents should have passed an appropriate order stating the reason why the suspension order against the applicant is being continued after 18 months of the original order of suspension is passed. P-5 is very clear in its application to the applicant and it was also clarified that an appropriate order would be necessary if in the estimate of the respondents the pending disciplinary/criminal proceedings are not likely to be

completed within the next three months. Admittedly, that is the position in the present case that is to say that after the expiry of 18 months, there was no likelihood that the pending proceedings could be completed within the next three months.

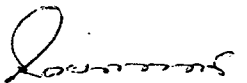
The applicant has alleged that no steps have been taken to prosecute or to proceed against him departmentally while respondents in their reply have stated that the criminal proceedings are in progress in the Special Central Bureau of Investigation Court at Lucknow even though it is at initial stage. The learned counsel for the respondents has produced before us a copy of the order of sanction for prosecution required to be taken in accordance with law in the present case. We are satisfied that the criminal case is pending against the applicant but the liability of the respondents to pass an appropriate reasoned order to continue the applicant under suspension as per Annexure P-5 is also unassailable. Accordingly, we direct the respondents to pass an appropriate order within two weeks from the date of the receipt of this order stating or justifying the order in accordance with P-5.


The main relief sought in this application is revocation of the suspension order in view of the guidelines available at P-5. We are unable to pass an order revoking the suspension order on the ground of violation of P-5 in the absence of any other allegation. At the same time, we would like to impress upon the

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respondents that P-5 being their own guidelines even if it does not create an enforceable right to the employee under suspension, the duty remains on the respondents to pass appropriate orders to retain a suspension order against a Government servant after 18 months. The respondents shall discharge their obligation under their own guidelines also considering the fact that the applicant has made a statement that he is willing to be posted or transferred anywhere other than the past place of posting in the exigencies of service, within a reasonable time.

With the aforesaid observations/directions, this O.A. is disposed of. No costs.


(S.P. Biswas)
Member(A)


(Dr. Jose P. Verghese)
Vice-Chairman(J)

/vv/