

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2278 of 1994

(A2)

New Delhi this the 27th day of July, 1999

HON'BLE MR. JUSTICE D.N. BARUAH, VICE CHAIRMAN  
HON'BLE MR. N. SAHU, MEMBER (A)

Madhukar  
S/o Shri Yudishtra  
R/o 51 Delhi Admn. Flats,  
Greater Kailash,  
New Delhi. ....Applicant

By Advocate Shri A.K. Behra.

Versus

1. Union of India through  
The Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi.
2. The Director,  
Central Bureau of Investigation,  
C.G.O. Complex,  
Lodi Estate,  
New Delhi.
3. The Chief Secretary,  
National Capital Territory of Delhi,  
5, Sham Nath Marg,  
New Delhi. ....Respondents

By Advocate: None.

ORDER (ORAL)

Hon'ble Mr. Justice D.B. Baruah, Vice Chairman

The applicant has challenged the continued suspension order passed by the Disciplinary Authority Annexure A-1 and Annexure A-2. The applicant was working in the Employment Department under the Delhi Administration. The applicant was suspended by the disciplinary authority by Annexure A-1 order dated 26.10.1994 and thereafter, the suspension continued.

(P)

(X3)

The ground of suspension was that a criminal investigation and thereafter the trial of the case was pending. By Annexure A-2 order, the suspension was ordered to be continued until the disposal of the trial without any possibility of a review. As the suspension is continued, the applicant has filed the present application.

2. The respondents have filed counter-affidavit.

We have heard Shri A.K. Behera, the learned counsel appearing on behalf of the applicant. None appears on behalf of the respondents.

3. Mr. Behra submits that order of suspension was passed mechanically without considering the necessity of passing the order of suspension. He further submits that investigation of the criminal case was over and now the matter is placed in the trial court. According to him all the necessary evidence has already been collected and there is no apprehensions that the applicant would interfere with the investigation. Annexure A-2 order is a blanket order without saying that the order of suspension would continue till the disposal. There was no scope of review as envisaged in the law. No doubt it is in the inherent powers

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of the disciplinary authority and also mandatory to review periodically the case of a Government servant under suspension in which charge-sheet has been served /filed to see what steps could be taken to expedite the progress of the court trial/departmental proceedings and revoke the order permitting the Government servant to resume duty at the same station or at a different station, when in his view the continued suspension is not justified having regard to the circumstances in the case of any particular stage. Unduly long suspension while putting the employee concerned to undue hardship involves payment of subsistence allowance without the employee performing any useful service to the Government. It is, therefore, obligatory on the part of the disciplinary authority to consider whether reinstating the applicant would be a hurdle to the progress of the disciplinary proceedings or court case and for that purpose it has to be reviewed from time to time. Mr. Behera, learned counsel appearing on behalf of the applicant has drawn our attention to the decision in State of H.P. Vs. P.C. Thakur reported in 1994 (27) ATC 161. In the said case, the criminal case was registered against the



(A5)

employee under the provisions of Section 5(2)(i)(d) of the Prevention of Corruption Act. Disciplinary Authority also initiated a disciplinary proceedings against him and the charge-sheet was issued. As the suspension order was allowed to continue for a long time, the applicant approached the Tribunal against the continued suspension order and also the disciplinary proceedings. The matter was taken up before the Supreme Court which upheld the suspension order quashing of order. However, the quashing of the disciplinary proceeding was set aside. Mr. Behra also relies on Rule 10(5)(b) of the CCS (CCA) Rules, 1965 and submits that suspension is illegal in the instant case. Therefore, according to him, continued suspension is illegal. We find sufficient force in the submission of Shri Behera. Accordingly, we revoke the suspension order Annexure A-1 and Annexure A-2 and direct the respondents to reinstate the applicant forthwith.

No costs.

N. SAHU  
(N. SAHU)  
MEMBER(A)

D.N. Baruah  
(D.N. BARUAH)  
VICE CHAIRMAN

Rakesh