

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.544/94

(13)

New Delhi, this the 25th October, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

Shri D.S. Bhargava,
s/o Shri Nihal Singh,
R/o E-46, Haus Khas,
New Delhi.

.... Applicant

(By Advocate: Shri B.B. Raval)

Vs.

1. Union of India
through the Secretary,
Ministry of Textiles,
Udyog Bhavan,
New Delhi.
2. The Development Commissioner
(Handicrafts),
Ministry of Textiles,
West Block No.7, R.K. Puram,
New Delhi.
3. Shri H.S. Kalra,
employed as Director,
Central Region,
Office of Development Commissioner (Handicrafts),
Ministry of Textiles,
(Regional Office),
B-46 (J. Park) Mahanagar Extension,
Lucknow.
4. Shri Mahesh Chand,
Instructor (Textile and Printing)
Hand Block Printing Training Centre,
Ministry of Textile,
Office of Development
Commissioner (Handicrafts),
Sidhorath Nagar,
Hapur.

.... Respondents

By Advocate: Shri R.L. Verma

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Hon'ble Shri J.P. Sharma, Member (J)

(A)

The applicant is employed as Incharge Training Officer (I.T.O.) in the Ministry of Textiles. A disciplinary proceedings were ordered to be initiated against him and by the order dated 21.1.93 passed by Assistant Director (H) he was placed under suspension further directing him that he is posted at Headquarters Lucknow and will not leave the Headquarters without obtaining prior permission. The applicant submitted an appeal to the Secretary, Ministry of Textiles but that was not disposed of till the filing of this application on 7.3.94. In the meantime by the order dated 13.1.94, the Inquiry Officer had directed him to appear in the enquiry on 15.2.94 in his office.

2. In this application the applicant has prayed to quash the orders of his suspension (Annexure 'A') dated 21.1.93 regarding his suspension and shifting Headquarters to Lucknow from Mapur. He has also prayed for the quashing of the order dated 13.1.94 (Annexure 'C') by which the applicant had been directed to appear at Lucknow in the departmental proceedings.

3. A notice was issued to the respondents who contested this application and stated that the impugned suspension order has been revoked by the respondents on 26.4.94. In view of this, the relief claimed by the applicant for quashing of the suspension order has become infructuous. As regards the date of the enquiry fixed by the Inquiry Officer by the order dated 13.1.94 at Lucknow it is stated that the application is pro-mature. It is further stated that the application is not maintainable. The respondents have also denied

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the various averments made by the applicant in the J.A. The applicant has not filed any rejoinder inspite of time allowed.

4. We heard the learned counsel of the parties on admission. Shri M.L. Verma for the respondents stated on instructions that the applicant was posted to Farrukabad on reinstatement but subsequently on his own request he has been posted at Agra on 1.9.94 and he has also joined his duties at that place. In support of the same a photo copy of the joining report has been shown which is duly signed by the applicant. As is evident by the order dated 22.9.94 it is contended by the learned counsel for the respondents that this application has become infructuous. A photocopy of the said joining report dated 1.1.94 has been filed and placed on Part 'A' of the file.

5. Shri B.B. Raval, however, contended that the application has not become infructuous inasmuch as he has also prayed for the grant of quashing of the order issued by the Inquiry Officer for appearance before him for participating in the enquiry. He has also stated that a direction be issued to the respondents that the enquiry be conducted by a senior official of the vigilance or Central Vigilance Commission outside the Ministry.

6. As regards the grievance of the applicant regarding suspension and posting that has already been considered by the respondents as he has been reinstated in service by revoking the order of suspension dated 21.1.93 and posting him to the station of his choice i.e. Agra where he joined on 1.9.94.

7. Regarding the other grievance for quashing the order dated 13.1.94, this application is not maintainable at all. The applicant has been served with a memo. of chargesheet dated 7.4.93 with articles of charges, imputation of misconduct and the evidence to be relied upon by the department. The Inquiry Officer has only fixed the date for preliminary hearing at Lucknow. No petition lies against any interlocutory order as held by the Hon'ble Supreme Court in the case of Union of India V. Upender Singh reported in (1994) 27 ATC 200. That was a case where chargesheet was issued to an Income Tax Commissioner and on the application filed before the Principal Bench the proceedings were stayed. The Hon'ble Supreme Court held that no petition lies against an interim order. The case of the applicant is still worse inasmuch as he has not assailed the chargesheet on any of the grounds whatsoever. In view of this, the application is not maintainable against the relief of quashing the order dated 13.1.94 directing the applicant to participate in the enquiry proceedings for which a chargesheet has been served upon him for some alleged misconduct. The respondents counsel Shri M.L. Verma has also filed a letter dated 6.10.94 that the applicant is not still appearing while the Inquiry Officer fixed dates 15.2.94 and 18.3.94 and another date 27.10.94 has been fixed in the enquiry at Regional Office, Lucknow. This letter has been taken on record and a copy delivered to the counsel for the applicant. Thus order dated 13.1.94 has lost its significance as the applicant did not appear before the Inquiry Officer.

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8. The application therefore as regards the relief for revocation of suspension order and posting of the applicant at Headquarters Lucknow has become infructuous and for the relief quashing the order dated 13.1.94 the application is not maintainable. The applicant is expected to participate in the departmental enquiry for which memo. of charge has already been served upon him. The application therefore is dismissed as said above with no order as to cost.


(S.K. SINGH)
Member (A)


(J.P. SHARMA)
Member (J)

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