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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH  
NEW DELHI

D.A. No. 13/94

New Delhi, dated the 8th September, 1994

CORAM

Hon'ble Shri N.V. Krishnan, Vice Chairman (A)

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

Shri S.K. Bagga,  
S/o Shri Sakhir Chand  
r/o A-7- Chander Nagar,  
Janak Puri, New Delhi-58

... Applicant

(By Advocate Shri D.R. Gupta )

V/s

1. The Commissioner of Income Tax (VII),  
C.R. Building Room No. 251,  
I.P. Estate, New Delhi-110002
2. The Chief Commissioner of Income Tax (III)  
C.R. Building, I.P. Estate,  
New Delhi-2
3. The Deputy Commissioner of Police,  
Crime and Railways, 4th Floor,  
MSO Building, Police Hqrs.  
I.P. Estate, New Delhi-2

... Respondents

(By Advocate Shri R.S. Aggarwal )

JUDGMENT (ORAL)

(Hon'ble Shri N.V. Krishnan, Vice Chairman (A))

The applicant was detained in custody on 17.3.93 for more than 48 hours in respect of an offence of forgery under investigation by the Police. Therefore, vide order dated 20.3.93 (Ann. A.I) he was deemed to be placed under suspension w.e.f. 17.8.93. He still continues under suspension. He has filed an appeal to the first respondent i.e. Commissioner of Income Tax-VII on 29.9.93 (Ann. A.II). That appeal is still pending. The applicant also complains that subsistence allowance which has been fixed *at* *Rs.* 0/-

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50 per cent of his pay has not been increased after completion of 3 months on suspension. In the circumstances, the applicant has <sup>allowance</sup> ~~allowance~~ prayed for a number of reliefs, including granting of suspension and directing respondent No.3 to complete the investigation in one month.

2. When the matter taken up today for admission, the learned counsel for the applicant pressed only the relief relating to subsistence allowance. In so far as the charge of forgery is concerned, he volunteered the information that the officer, whose signature the applicant is alleged to have forged, has since died. The charge, which according to him was baseless, has now become all the more difficult to prove.

3. We have heard the learned counsel for the respondents. He states that the matter is under investigation by the Police Authorities who are ~~outside~~ the control of the first respondents. <sup>an explanation</sup> There is no satisfactory ~~argument~~ why the subsistence allowance has not been increased.

4. We have considered the pleadings and the arguments.

5. We cannot give any direction to the third respondents to expedite investigation, as we have no jurisdiction in this regard.

6. We are of the view that the considering all the facts and circumstances of the case and also the developments referred to by the learned counsel for the applicant, it is necessary that a direction should be issued to the respondent No.1 to dispose of the appeal a period filed by the applicant within <sup>of</sup> two months from the date of receipt

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of this order after giving a hearing to the applicant. Further, in case, it is decided to continue the suspension, the respondents are also bound to carry out periodical reviews as enjoined/standing instructions issued by the Government on the subject. We issue directions accordingly.

7. In so far as subsistence allowance is concerned, the only reply given by the respondents in para 4.13 is that there is, as yet, no case for increasing subsistence allowance or for granting any relief.

8. This reply is unsatisfactory. FR 53 deals with the subsistence allowance payable to an employee under suspension. Clause (i) of the proviso to clause (a) of FR 53(1)(ii) states that the amount of subsistence allowance may be increased after the first three months of suspension, if the period of suspension has not been prolonged due to any reasons attributable to the employee. The subsistence allowance may be increased by not more than 50 percent. We have seen the pleadings. There is no allegation by the respondents that the investigation is being prolonged because of reasons attributable to the applicant. In the circumstances, this applicant is entitled to subsistence allowance at the rate of 75% on the expiry of three months from the date of deemed suspension. We, therefore, direct the respondent No.1 to pay subsistence allowance at the rate of 75 percent from the date of deemed suspension. The amount so due shall be paid to the applicant within two months from the date of receipt of a copy of this judgment.

9. This O.A. is disposed of with the direction in para 5 and para 8. No costs.

Lakshmi Swaminathan  
(Lakshmi Swaminathan)  
Member(J)  
sk

8/9/94  
(N. V. Krishnan )  
Vice Chairman(A)