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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO. 1667-2000

New Delhi, this day the 2nd January, 2001

HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Shri Devi Dayal Sharma, T.G.T.(SS)
Govt. Boys Senior Secondary School No.1
Ghonda, Delhi:53 Applicant
(By Advocate : Shri O.P. Kalshian)

VERSUS

1. The Chief Secretary,
Govt. of N.C.T. of Delhi,
Old Secretariat,
Delhi : 110 006
2. The Director of Education,
Directorate of Education
Govt. of N.C.T. of Delhi,
Old Secretariat,
Delhi : 110 006
3. The Deputy Director of Education,
Govt. of N.C.T. of Delhi

'B' Block, Yamuna Vihar,
Delhi : 110 053 Respondents
(By Advocate : None)

O R D E R (ORAL)

Since none was present on behalf of the respondents even on the second call, the learned counsel appearing for the applicant was heard at length and the following orders were passed:-

"For reasons to be recorded, the order of suspension dated 18.2.1998 is quashed and set aside with liberty given to the respondents to complete the disciplinary proceedings in accordance with the rules as expeditiously as possible"

2. I now proceed to record my reasons in support of the aforesaid order.
3. The applicant in this OA, who is a TGT (SS) in Delhi was placed under suspension on 18.2.1998

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(Annexure-I) at a point of time when disciplinary proceedings were contemplated against him. Thereafter no charge sheet was served on the applicant for over six months and this delay resulted in a representation by the applicant filed before the Respondent No.2 on 11.9.1998 (Annexure-II). A regular charge sheet was consequently served on the applicant vide respondents' Memorandum dated 21.12.1998 (Annexure VI). The applicant thereafter filed a representation dated 26.2.1999 before Respondent No.2 praying for revocation of the order of suspension and cancellation of charge sheet. The aforesaid representation also prayed for the appointment of Enquiry Officer from amongst the officers not subordinate directly or indirectly to Shri S. Chakerborty, Deputy Director, who was biased against him. From the respondents' letter dated 22.12.1999 placed at Annexure-IV, it would seem that the applicant's prayer for revocation of his suspension order was rejected on the ground that it was not found possible for the department to do so. The applicant's allegation is that the charges levelled against him are false and fabricated and have been levelled with malafide intentions. He has accordingly denied all the charges.

4. During the course of the arguments, the learned counsel appearing for the applicant has drawn my attention to a number of instructions issued by the Govt. of India from time to time on the subject of prolonged suspension of Govt. servants. In the present case, the applicant was placed under suspension in February, 1998, and continues to be under suspension to date. The charge

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sheet was served on the applicant after an abnormal delay in December, 1998 i.e. after he had remained suspended for nearly 10 months. A further period of two years has passed since the charge sheet was served on the applicant, but the disciplinary proceedings have not been concluded. The learned counsel's contention is that the applicant's continued suspension contravenes the aforesaid Govt. of India's instructions in several ways. For instance, relying on Swamy's Compilation of CCA (CCA)Rules (21st Edition 1995), the learned counsel has cited DOP&T's instructions dated 1st July 1976, MHA's OM dated 7th September, 1975, DOP&T's OM's dated 4th February, 1971 and 16th December, 1972, MHA's OM dated 14th September, 1978 and DOP&T's letter dated 15th July, 1976. A perusal of these instructions would seem to indicate that the policy of the Govt. has been to keep the period of suspension to the barest minimum and to hold periodical reviews of suspension cases so as to ensure that the aforesaid policy of the Govt. is properly and effectively implemented. These instructions further reveal that the Govt. would be prepared to act against superior officers, who do not implement the aforesaid policy properly, effectively and speedily, resulting in Govt. officials remaining suspended for long periods of time without any justification. The aforesaid instructions dated 15th July, 1996 accordingly lay down that in disciplinary cases the charge sheets should be served on the delinquent official within three months from the date of suspension and where it is not possible to do so, the matter must be reported to the higher authority giving reasons for the delay. It has to

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be noted, at this stage, that in the present case the charge sheet was served on the applicant nearly 10 months after he was placed under suspension.

5. The instructions dated 7th September, 1965 provide that even though suspension is not to be considered as a punishment, the same does mean a very great hardship to the delinquent Govt. servant. These very instructions also provide that while charge sheet should be served as a rule within six months, in the event of likely delay in the completion of investigation, the competent authority should consider whether the order of suspension should be revoked and the officer permitted to resume duty. These instructions go to the extent of providing where in a delayed case, it is felt that the delinquent officer is likely to tamper with evidence, he may be transferred to some other place after revocation of the suspension order. The aforesaid period of six months was reduced to just three months vide instructions dated 4th February, 1971.

6. The instructions dated 16th December, 1972 further emphasise the urgency of the matter and lay down that the total period of suspension, both in respect of investigation and disciplinary proceedings should not ordinarily exceed six months and in exceptional cases in which it is not possible to adhere to the aforesaid time limit, the disciplinary authority should report the matter to the next higher authority bringing out the reasons of delay. Subsequent instructions dated 14th September, 1978, seek to impress on the authorities

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concerned the need for observing the aforesaid time limits in a scrupulous manner. The same also once again emphasise that cases of suspension should be kept under constant review to see from time to time whether in each case continued suspension of a delinquent official is really necessary. The authorities superior to the disciplinary authorities are also required to give an appropriate direction to the disciplinary authorities, keeping in view the aforesaid instructions. The higher authorities are required in accordance with the instructions of 15th July, 1976 to examine carefully each and every case of suspension so as to make sure that in ~~each~~ case continued suspension of the delinquent official is absolutely necessary. The need for periodical review of suspension cases has been emphasised once again in these instructions.

7. From what the learned counsel for the applicant has contended and on the basis of the material placed on record, I find that no attempt has been made by the respondents to deal with the disciplinary proceedings with due expedition. I also find that the respondents have not cared to examine whether continued suspension of the applicant was absolutely necessary in this case. The respondents' reply dated 22.12.1999 saying that it has not been found possible to revoke the applicant's suspension shows the frame of mind of the respondents. The aforesaid letter does not disclose any reason as to why the applicant must be kept under suspension endlessly. The applicant had filed his written statement in response to the charge sheet dated 21.12.1993 within

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the next three days, denying all the charges levelled against him (Annexure V). Accordingly, it should have been possible for the respondents to complete the disciplinary proceedings within the next few months. However, if for good and sufficient reasons the respondents could not do so, they should have seriously considered the question of keeping the applicant under suspension for such a long time. Afterall, a Govt. servant under suspension continues to draw subsistence allowance and at the same time remains out of work. In the process the Govt. loses a hand and it is just too bad if working hands are lost in this manner in the absence of good and sufficient reasons. As has been emphasised in the aforesaid Govt. of India's instructions, a delinquent official under suspension for a long time can always be shifted out to another place where he could work after revocation of his suspension. I find that the applicant is a teacher. He could, therefore, be easily shifted to another location if at all that is found to be necessary where he could teach and thus be of service to the respondents as well as the community.

8. In the totality of circumstances I have discussed in this and the preceding paragraphs, I feel convinced that there is no case for keeping the applicant under suspension any longer, and to this extent the CA must succeed and the suspension orders deserve to be quashed. No costs.


(S.A.T. RIZVI)
MEMBER (A)

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