

Central Administrative Tribunal
Principal Bench

9

OA 2352/2000

Hon'ble Shri Govindan S.Tampi, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the day of 12th December, 2001

Ghan Shyam Sharma,
S/o Shri S.P.Sharma,
R/o B - 1/73, Yamuna Vihar, Delhi-53 ...Applicant

(By Advocate: Applicant in person)

Versus

1. Union of India through:
Secretary,
Ministry of Commerce,
Udyog Bhawan, New Delhi.
2. Director General of Foreign Trade,
Directorate General of Foreign Trade,
Udyog Bhawan, New Delhi.

(Previously known as)

Chief Controller of Imports & Exports,
Ministry of Commerce, Udyog Bhawan,
New Delhi.

3. Joint Director General of Foreign Trade,
Directorate General of Foreign Trade,
(Central Licensing Area) 6 & 7 Asaf Ali Road,
New Delhi.

(Previously known as)

Joint Chief Controller of Imports & Exports,
Central Licensing Area, Indraprastha Bhawan,
Bhawan, New Delhi.

4. Joint Director General of Foreign Trade,
Directorate General of Foreign Trade,
(Vigilance Section) Udyog Bhawan, New Delhi.
5. Deputy Director General of Foreign Trade,
Directorate General of Foreign Trade,
Udyog Bhawan, New Delhi. ...Respondents.

(By Advocate: Shri Rajeev Bansal)

Order(Oral)

By Hon'ble Shri Shanker Raju, Member(J)

Heard applicant in person and learned counsel
for the respondents.

2. The applicant on account of involvement in

criminal case, under section 1209 R, 420, 467, 471 of IPC and Section 5(2) read with 5(1) of Prevention of Corruption Act 1947 was placed under suspension by an order dated 27.7.1984 under sub rule (i) of Rule 10 of the CCS (Classification, Control & Appeal) Rules, 1965.

3. In the criminal trial his co-accused has challenged the charges before the High Court. Applicant has made representation to the respondents for revocation of suspension order but it has transpired that the same is under consideration.

4. The applicant in his pleadings has stated that the co-accused delinquent official has already been reinstated back in the year 1999, whereas different treatment has been meted to him in violation of Articles 14 and 16 of the Constitution of India. It is further stated that in pursuance of the registration of the case in 1984, no substantial progress has been made in the criminal trial which is still at the trial stage. It is further stated that the respondents have not taken up disciplinary proceedings against the applicant. In view of the matter, it is stated that the deemed suspension of the applicant is absolutely unjustified and unreasonable. It is lastly contended that there is no possibility of tampering with any evidence as the entire material has already been taken into possession by the investigating agencies and is at present lying with trial court. It is in this view of the matter the applicant has prayed for

revocation of his suspension with a direction that he may be allowed to join on a non sensitive duty which inter alia does not relate to public dealings.

5. The learned counsel for the respondents has stated that the request of the applicant for revocation has been pending with the respondents and final decision is yet to be taken as the CBI is to be consulted. Further, in their reply, it is stated that applicant is involved in serious charges which is at the final stages, it is thus not proper to reinstate him in service. It is also stated that there are about 250 witnesses in the criminal trial and this goes to show that the trial would take another few months to conclude. In this view of the matter, it is stated that the applicant has no justifiable claim for revocation of its suspension. Learned counsel of the respondents further stated that the co-accused was not an employee of the respondents.

6. We have considered the rival contentions of the parties and perused the material on record. In our considered view, continued suspension of the applicant for 17 years is absolutely unjustifiable. The respondents have failed to consider the various provisions of law laying down the guidelines for revocation suspension. The basic object of suspension is to keep away the employee during the investigation or proceedings with a view to ensure that the proceedings are not interfered with by the Government employee. Once the relevant material has already been taken into possession by the investigating authority, there is no possibility of the applicant of tampering with any evidence on record. It is not disputed

that the charge framed in the trial has already been challenged before the High Court by the co-accused. We notice that the co-accused admittedly belongs to some other department has already been reinstated. This has not been taken into consideration by the respondents to revoke the suspension of the applicant. However to ensure that the applicant does not tamper with the evidence or repeat such activities, he may be posted at a place which does not inter alia involve public dealings.

7. In this view of the matter, the present OAU is disposed of by directing the respondents to consider the request of the applicant which is already stated to be under consideration, for revocation of suspension in the light of observations made above, and to take final decision within a period of two months from the date of receipt of copy of this order. No costs.

S. Raju
(Shanker Raju)
Member (J)
/kd/

Govindan S. Tampi
Member (A)