

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.991/2000

New Delhi this the 24th day of August, 2000.

(9)

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN (J)
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (ADMNV)

Brijinder Rai, IPS,
471, Asian Games Village,
New Delhi.

...Applicant

(By Advocate Shri S.R. Sharma)

-Versus-

1. Union of India through
its Home Secretary,
North Block,
New Delhi-110 001.

2. Delhi Development Authority,
through Vice-Chairman,
Vikas Sadan,
Near INA Market,
New Delhi.

3. The Secretary,
Department of Personnel,
Ministry of Personnel,
North Block,
New Delhi.

4. Chief Vigilance Commissioner,
Government of India,
Bikaner House,
New Delhi.

5. The Secretary,
Ministry of Urban Development,
Nirman Bhanwan,
New Delhi-110 001

...Respondents

(Respondents 1, 3, 4 & 5 through Advocate Sh. Rajinder Nischal with Deputy Secretary Sh. R.K. Mitra, MHA)

(Respondent No.2 through Advocate Shri Vinay Sabharwal)

O R D E R (ORAL)

By Justice V. Rajagopala Reddy, Vice-Chairman

Heard the learned counsel for the applicant and the respondents.

2. The applicant is an IPS Officer belonging to the Haryana cadre and has been appointed as Chief Vigilance Officer, Delhi Development Authority, in 1997. He has been placed under suspension by the order dated 18.8.98 in the exercise of the powers conferred by sub rule (3) of Rule 3 of

(2)

All India Services(Discipline and Appeal) Rules, 1969, on the ground that a case against him was under investigation/enquiry. The present OA is brought before us, challenging the continuance of the applicant under suspension.

3. The learned counsel for the applicant Sh. S.R. Sharma submits that even accepting the allegations that are sought to be made against him as true and acceptable, the applicant should not be continued under suspension. It is further contended that the CBI having enquired into the allegations made against the applicant has found in its report that there was no truth in those allegations and on the basis of the said report the Central Vigilance Commission has also requested that a decision be taken on the basis of the said CBI report. Hence, there was no valid reason for continuance of the applicant under suspension. It is lastly contended that the enquiry against the applicant is taking unduly long time, which should only be treated as a mala fide action on the part of the respondents.

4. It is, however, the case of the respondents that the allegations against the applicant are very serious and that as the applicant was alleged to have acquired huge property worth several crores which was disproportionate to the known sources of income, he was liable to be kept under suspension till the enquiry was completed. The order of suspension has been passed in accordance with the rules and the competent authority has also reviewed the suspension and has taken the decision to continue him under suspension for a period of six months which would expire by the end of this year.



11

5. We have given careful consideration to the issues that arise in this case.

6. It is not in dispute that the applicant has been placed under suspension on the basis of certain pseudonymous complaints made by one Smt. Sujata Sharma, alleging that he had harassed and wrongfully confined her with ulterior motives. We have perused the complaints. The allegations are serious and the applicant was rightly placed under suspension taking enquiry into them. It is not in controversy that the CBI had submitted an interim report after enquiry.

7. A perusal of the letter dated 5.11.98 sent by the Central Vigilance Commission to the DDA makes it clear that the CBI having investigated into the complaints had found that there was no truth in those allegations. It is, however, stated in the reply filed by respondents 1, 3, 4 and 5 at para 10 of the reply that upon receipt of the said complaint from one Mrs. Sujata Sharma the CBI had taken up the investigation and it was revealed during the said enquiry that certain charges of acquisition of assets disproportionate to the income of the applicant came to light. The CBI had registered a preliminary enquiry (PE) in the matter against the applicant. It was also stated that the enquiry in the matter has since been completed and final report was being prepared by the CBI. It is also fairly conceded by the learned counsel for respondents 1, 3, 4 and 5 that the only allegation that survives against the applicant is the acquisition of assets disproportionate to his known sources of income.

(12)

8. The learned counsel for the applicant, therefore, vehemently contends that as the CBI found that there was no truth in the allegations pending investigation in respect of which the applicant has been placed under suspension, the suspension should be revoked. There appears to be some force in this contention. But it should be borne in mind that during the investigation into the allegations made by Mrs. Sujata Sharma since a serious allegation came to light the CBI has been investigating into the matter. Admittedly, this is also a serious charge, punishable under the provisions of the Prevention of Corruption Act, if found true. Though the applicant was initially placed under suspension in certain allegations, he was liable to continue under suspension till all the allegations that came to light during investigation are enquired into and he was cleared of them. Taking any other view would be contrary to the rule and defeating the purpose for which one has to be placed under suspension pending enquiry and also ends of justice. It is clear from the reply as well as the statement made by the counsel for the respondents that the CBI had almost completed the investigation and the final report might be submitted at any time. The learned counsel for the respondents also placed before us the proceedings dated 18.5.2000 whereby the duly constituted review committee has considered the suspension of the applicant and it had recommended continuance for six months or till further orders are passed meanwhile. In the circumstances, we do not find that this is an appropriate case where the applicant's suspension should be revoked. It is, however, true as contended by the learned counsel for the applicant that the enquiry is being delayed as the applicant had been placed

(3)

under suspension on 16.8.98, it is over two years since then and the applicant is still continuing under suspension. But this Tribunal cannot draw conclusions merely on the ground of delay that the delay is motivated or biased on the part of the respondents. No such material is placed before us to come to such conclusion. The decision in K. Sukhendar Reddy v. State of A.P. and Another, 1999 (6) SCC 257, the facts are entirely different. In that case the Court found that no disciplinary proceedings were contemplated against the appellant and that officers senior to the appellant were stated to have been involved in the criminal case and it was also found that there was no information as to when the investigation would be completed. On these grounds and on the ground that the appellant was under suspension since more than two and a half years the Court held that it was not permissible to resort to selective suspension. These facts are not found in the instant case. In fact the learned counsel for the respondents had stated that the investigation was almost completed and the final report would be submitted within a short time. In these circumstances the judgement of the Supreme Court cannot be said to be a decision in favour of the applicant.

8. We, however, direct that the CBI should expedite the enquiry and submit a final report. We also direct the respondents to review applicant's suspension immediately after the report is submitted by the CBI or earlier as per the All India Services(Discipline and Appeal) Rules, 1969 and also consider the question of delay in the investigation of this case. The respondents are also directed to communicate all the orders of review already done and to be done by the competent authority to the applicant.

(6)

(A)

9. Subject to the above observations the OA is dismissed. ~~NP~~ costs.

(Govindan S. Tampi)
Member (Admnv)

'San.'

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice-Chairman(J)