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9.2.1990

B.K. Gupta

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Applicant

Om Parkash Sharma

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Applicant

Prem Kumar

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Applicant

Banamali Halder

• • •

Applicant

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Union of India & Ors. . . .

Respondents

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OGN

put under deemed suspension, with effect from 21.4.1988, vide order dated 2nd May, 1988. The allegations against the applicants were that they were illegally charging money for all cases brought to the office of the P.O.E., by the Travel/ Recruiting Agents, for getting emigration clearance and for granting permission to export man-power to foreign countries. It was further alleged that the daily collection of the illegal money varied from Rs. 10,000/- to Rs. 30,000/-, depending upon the number of cases cleared on each day, and that the applicants, S/Shri Prem Kumar and B.K. Gupta, had been offering the share to the complainant, Shri Amit Das Gupta, out of the illegally collected money, by the staff of the P.O.E., which the complainant had been refusing to take. The said two officials, viz. S/Shri Prem Kumar and B.K. Gupta, were adamant and threatened the complainant that in case he did not accept the share of the amount so collected by 21.4.1988, they would stop processing the cases and thereby stop the work. The time to share the amount so collected, was fixed at 6.00 p.m. on 21st April, 1988 in the office room of the complainant, when the above named two accused officials were supposed to give the share of the amount, so collected, amounting, ~~to~~ approximately, Rs. 25,000/-, to the complainant, Shri Amit Das Gupta. This led to filing of the complaint by the said complainant, upon which a trap was laid, resulting into the apprehension of the applicants, besides some others. Some further amounts were also allegedly recovered at the instance of the applicants, which eventually led to their prosecution.

3. The applicants, vide the above mentioned O.As, have sought for quashing/revocation of their suspension order, and also putting them back to duty. Their pleas are mainly based on the ground that the C.B.I. had taken as many as about 17 months in instituting the challans against them, which is a fairly prolonged spell, and that alone, entitled them to be put back to duty, by revoking the order of their suspension. They have also put forth that keeping the Government servants under suspension for long spells serves no purpose, and sheerly adds to their prolonged agony, compelling them to forced idleness and that they should be put back on duty, may be, at different places and offices, so as to avoid the least possibility of any tampering with the evidence/ investigation in the case. They have sought support from a decided case in O.A. No. 273/88 (Rati Pal Saroj Vs. Union of India), decided by a Bench of this Tribunal on 1.5.1989, pleading for the relief aforementioned. They also pleaded that payment of salary to the extent of 75 per cent during the period of suspension, without getting any work from them, is also against the public interest, as the proceedings being carried out against them may take well over years, to finalise.

4. In the counters filed on behalf of the respondents in each of the aforesaid cases, the plea of the applicants has been vehemently resisted. It is urged that the nature of offence involves moral turpitude, and putting the applicants back to duty, would not be in the interest of administration, nor would it be viewed in public interest. It would also be against the avowed policy of the State to root out corruption, and the

continued suspension of the applicants would be demonstrative of the policy of the Government to deal strictly and sternly with such like elements. It was contended that even the applicants would not be able to devote themselves fully to the assigned duties, because of the case, as they would not be in such a frame of mind to put in their best in the job entrusted to them.

5. We have carefully considered the rival contentions, as made out from their respective pleadings, and also as put forth by their respective learned Counsel, during arguments, at the stage of admission.

6. Since the question to be looked into and decided at this stage is very limited, we feel that the matter can be disposed of at this very stage.

7. As has been brought forth above, the case in which the applicants have been challaned against, involves moral turpitude. As has been mentioned in the counter filed on behalf of the respondents, the challan has since been put in the competent court of Special Judge, on 22.9.1989. The case referred to by the applicants is ~~not~~ ^{not}, to our mind, ^{not} on all fours to the facts and circumstances of the present case, inasmuch as the challan against the applicants has since been put in the trial ^{court} ~~which~~, which is already seized of the matter. The facts and circumstances of each case have their own importance, and keeping in view the nature of allegations involved in the present case, we are not inclined to grant the relief sought for, by the applicants, for putting them back on duty, by

revoking/quashing the order of their suspension.

8. As a result of the foregoing, the said applications are accordingly dismissed, without any order as to costs.

I.K. Rasgotra
(I.K. Rasgotra) 9/2/90
Member (A)

T.S. Oberoi 9.2.90
(T.S. Oberoi)
Member (J)