

7

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1541/1988

DATE OF DECISION : 6.8.1991

BHARAT SHAH

... APPLICANT

VS.

UNION OF INDIA & ORS.

... RESPONDENTS

Shri G. D. Bhandari, Counsel for the Applicant.

Mrs. Rajkumari Chopra, Counsel for the Respondents.

CORAM : HON'BLE SHRI G. SREEDHARAN NAIR, VICE CHAIRMAN (J)
HON'BLE SHRI S. GURUSANKARAN, MEMBER (A)

.....

J U D G M E N T

Hon'ble Shri G. Sreedharan Nair, V.C.(J) :

The applicant, a Mechanical Operator, was placed under deemed suspension in terms of Sub-Rule (2) of Rule 10 of the C.C.S. (C.C.&A.) Rules, 1965 by order dated 2.7.1986 on the ground that he was detained in custody w.e.f. 10.6.1986 to 15.6.1986 and a case against him in respect of criminal offence is under investigation. He prays ~~for~~ to quash this order and to direct the respondents to permit him to join duty. It is alleged that the applicant was falsely implicated in the criminal case and that no charge sheet has been issued. It is stated that the representations submitted by the applicant were of no avail and hence the application.

2. In the reply filed by the respondents, it is stated that the applicant was arrested by the police for theft of jewellery from the house of one Shri Pratap Shah and the stolen properties were recovered from him. It is further stated that the criminal case is still pending in the Court of the Metropolitan Magistrate. It is contended that since the

2

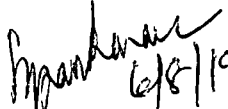
offence involved moral turpitude, the suspension could not be revoked as the presence of the applicant in the office was likely to subvert the office discipline.


3. The point that arises for determination is whether the applicant should be kept under continued suspension. More than five years have elapsed since the applicant has been placed under suspension. At the time of hearing, it was submitted by the counsel of applicant that till date the proceedings before the criminal court have not commenced. As such we are of the view that the continued suspension of the applicant is neither justified nor warranted in law. The plea of the respondents that the subsistence allowance has been increased will not be a justification for the continued suspension.

4. In this context it is useful to refer to the clear instructions issued by the Government in respect of the necessity to complete the investigation and file the charge-sheet in court where Government servants involved in such cases are placed under suspension. No material has been placed before us to satisfy us that due consideration was given regarding the necessity to keep the applicant under continued suspension.

5. In the result we hereby direct the respondents to revoke the order dated 2.7.1986 under which the applicant was placed under suspension and to permit him to join duty. This shall be done forthwith. It will be open to the respondents to issue orders in accordance with law as to how the period of suspension is to be treated.

The application is disposed of accordingly. ~~with no orders as to costs.~~


(S. Gurusankaran)
Member (A)


(G. Sreedharan Nair)
Vice Chairman (J)