

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 226  
T.A. No.

198 6.

DATE OF DECISION 25.6.1987

Dr. Sita Ram Sharma

Petitioner

Shri S.K.Bisaria,

Advocate for the Petitioner(s)

Versus

Lt. Governor, Delhi Admin.

Respondent

Shri M.M.Sudan,

Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. S.P.Mukerji, Administrative Member

The Hon'ble Mr. Ch.Ramakrishna Rao, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No

*Ch. Ramakrishna Rao*

(Ch. Ramakrishna Rao)  
Judicial Member

*S.P. Mukerji*

( S. P. Mukerji )  
Administrative Member

8

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH , DELHI

Regn.No.OA-226/86

Date: 25.6.1987.

Dr. Sita Ram Sharma

.... Petitioner.

Versus

Lt. Governor,  
Delhi Administration.

.... Respondents.

For petitioner.

.... Shri S.K.Bisaria,  
Advocate.

For respondents.

.... Shri M.M.Sudan,  
Advocate.

CORAM: Hon'ble Shri S.P.Mukerji, Administrative Member.  
Hon'ble Shri Ch.Ramakrishna Rao, Judicial Member.

JUDGEMENT

(Delivered by Shri S.P. Mukerji)

We have heard the arguments of the learned Counsel for the parties and gone through the documents carefully. The short point in this case is the question how the period of suspension of the petitioner between 12.1.1976 to 19.6.80 has to be treated. The applicant was suspended on 12.1.1976 pending a criminal proceedings against him and other 8 accused who are all government servants. The criminal proceedings are still pending and no disciplinary proceedings have been initiated against the applicant but on representation the respondents revoked the suspension on 19.6.1980 by the impugned order dated 15th July, 1980 w.e.f. 19.6.1980. The concluding portion of this order reads as follows:

"The question of treating the period of suspension and also payment of pay and allowances of this period will be decided after the decision of the criminal case/ departmental proceedings pending against Shri Sita Ram Sharma."

2. The applicant is aggrieved by the aforesaid order inasmuch as he did not receive the subsistence allowance during the aforesaid period of suspension nor any

increment during that period, his seniority also has been affected. The applicant has been making representations against the impugned <sup>order</sup> to which no reply has so far been given. The last representation was submitted on 11th October, 1985.

4. The learned Counsel for the respondents has raised a preliminary objection on the question of limitation, the impugned order being 3 years old reckoning from 1.11.85, when the Tribunal came into being. We feel that in the interest of justice and since the consequence of the impugned order is continuing through the succession of increments which he had earned during the period of suspension and since his last representation of October, 1985 which is still un replied was submitted within 1½ years of the date of present application, the objection regarding limitation does not hold water and we reject the same.

5. Coming ~~down~~<sup>now</sup> to the merits of the case, Sub-Clause I of FR 54-B enjoins upon the respondents to pass a specific order on the pay and allowances and during the period of suspension and how it should be treated, while passing the order of revocation of order of suspension by deferring the statutory obligations on them indefinitely till the criminal proceedings are completed, the respondents can be said to have put the applicant in a state of continuing punishment without hearing him and before his delinquency has been established either in the criminal court or through disciplinary proceedings. Sub Clause 6 of FR 54-B has been specifically provided to review the order passed under Sub Clause 1 thereof so far as the period of suspension is concerned. Sub Clause 6 makes it clear that order of revocation of suspension has to be immediately followed by an order of how the period of suspension is treated. By not passing this order under Sub Clause I of FR 54-B, we feel that the respondents have done less than justice to the applicant.

6. We cannot turn a Nelson eye to the fact that the criminal proceedings are still continuing even after the orders of suspension was revoked and no disciplinary proceedings have yet been initiated against the applicant. We cannot also ignore the fact that the other 8 co-accused in the criminal proceedings, stated on the same facts and circumstances had never been suspended like the petitioner. It has been held by the Supreme Court and by the Tribunal in a number of cases that where disciplinary proceedings are consciously delayed or not initiated, suspension per se is bad in law.

7. In the above circumstances and recognising the fact that the other co-accused have never been placed under suspension and there being no fact on record for clarification why the applicant was singled out for suspension, we feel that instead of remanding the case with the direction to respondents to pass suitable orders about the period of suspension, justice and equity demand that the applicant should be considered to be on duty throughout the period of suspension with all consequential benefits of pay, increments, arrears and seniority. We therefore, allow the application with the direction that the applicant to be considered on duty during the period of suspension with full consequential benefits with liberty to the respondents to review this question under Sub Clause 6 (1) FR 54-B at an appropriate stage. The respondents are directed to pass suitable orders and make good of the payments due to the applicant within 3 months of the receipt of this order. There will be no order as to costs.

*Ch. Ramakrishna Rao*

(Ch. Ramakrishna Rao )  
Judicial Member

*S. P. Mukerji*

( S. P. Mukerji )  
Administrative Member