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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

REGN. NO. OA.No. 328 OF 1986

November 10, 1986.

Shri P.K. Biswas

.. PETITIONER

Vs.

Union of India

.. RESPONDENT

Coram: Shri B.C. Mathur, Vice-Chairman

Shri H.P. Bagchi, Member. *Judl.*

For the Petitioner: Shri Raj Panjwani, Counsel.

For the Respondent: Shri P.H. Ramchandani, Counsel.

This is an application under Section 19 of the Administrative Tribunals Act, 1985 against the orders of the Chief Commissioner (Administration) and Commissioner of Income-tax, West Bengal-1, Calcutta, placing the applicant under suspension.

Briefly, the case is that the petitioner was facing a departmental inquiry and was permitted by the Hon'ble High Court of Orissa to inspect some papers basing on which some charges had been framed against him. While inspecting the documents, the petitioner is alleged to have removed relevant papers and manipulated official records which amounted to committing serious irregularities. His case was handed over to the police for investigation. The petitioner was placed under suspension vide orders No. C/3212 dated 18.2.1986 passed by the Chief Commissioner (Administration) and Commissioner of Income-tax, West Bengal-1, Calcutta. The order states that the petitioner was placed under suspension as a criminal offence

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was under investigation by the police. The final report dated 28.2.1986 by the S.I., Capital Police Station, under Section 173, Criminal Procedure Code, has mentioned that in this case under Section 380, I.P.C., there was not sufficient evidence for charge sheet and, therefore, he returned the case as F.R.T. (Insufficient evidence for charge sheet).

The S.D.J.M., Bhubaneswar, under Order Sheet G.R. Case No. 283 of 1986 has passed the following orders:

"Seen the F.R. No. 46 dated 28.2.86 U/s 380, I.P.C. The case is true U/s 380, I.P.C. Insufficient evidence of charge sheet. Property stolen - Some documents. Property Recovered - Nil. Final Report is accepted."

The Hon'ble Counsel for the respondent has argued that while the suspension order was issued because a criminal offence against the petitioner was under investigation, his record was bad and even otherwise, the respondent would have been justified to place him under suspension. The fact, however, is that in the suspension order the reason given is only investigation of a criminal offence by the petitioner. In view of the fact that the S.D.J.M., Bhubaneswar, has held that there was insufficient evidence for charge sheet, the very basis ^{for} ~~in~~ the suspension order passed by the Chief Commissioner (Administration) and Commissioner of Income-tax, West Bengal-1, Calcutta, is no longer valid. The suspension order is hereby quashed. The petitioner may be reinstated with full salary and consequential benefits from the date he was placed under suspension. No orders as to costs.


(H.P. BAGCHI)
JUDICIAL MEMBER


(B.C. MATHUR)
VICE-CHAIRMAN