

7

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. No.1482/87

**Date of Decision: 7.11.91**

S.C. Srivastava.

Applicant.

Versus

Delhi Administration & anr.

Respondents.

CORAM: THE HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN  
THE HON'BLE MR. J.K. RASGOTRA, MEMBER(A).

For the Applicant.

.... G.R.Matta, Counsel.

For the Respondents.

.... Mrs. Avnish Ahlawat,  
Counsel.

(Judgement of the Bench delivered  
by Hon'ble Mr. Justice Amitav  
Banerji, Chairman)

This O.A. has been filed by the applicant, who retired from service on 30.6.1986. He had undergone suspension for the period from 9.1.1984 to 24.7.1984. By an order dated 25.7.1984, the Chief Secretary, Delhi Administration, Delhi reinstated the applicant in service with effect from the date he takes over the charge. The following order was passed:

"...The disciplinary proceedings against him, will, however, continue. The orders regarding payment of pay and allowances to be paid to him during the period of suspension, will be issued after completion of the disciplinary proceedings against him".

The Delhi Administration had entrusted the inquiry to Shri Ajay Singh, Commissioner for Departmental Inquiries, Central Vigilance Commission (C.V.C.), New Delhi to inquire into the three charges against the applicant, who was Librarian in Delhi College of Engineering, Delhi. The Commissioner for Departmental Inquiries submitted an Inquiry Report on 20.4.1984, and he concluded that the charges against the applicant had not been proved. The Chief

as

Secretary, Delhi Administration, Delhi vide his order dated 20.6.1984 stated that Shri S.C. Srivastava, the applicant, was exonerated of the charges framed against him. Even after the above order, the further order dated 25.7.1984 (Annexure 'A-VI') was passed. The applicant contends that after the order of exoneration the question of passing further order regarding his pay and allowances during suspension till after the conclusion of the disciplinary proceedings was misconceived. He has stated that he has not been paid his Gratuity, Leave Encashment and these have been left undecided till after the completion of the inquiry. In other words, his contention is that after the Inquiry Officer's report and passing of the orders exonerating him from all charges, there was no scope for putting further embargo in the matter of pay etc. with respect to the applicant.

The respondents' stand is that the applicant was charge-sheeted thrice. On the first occasion, the proceedings were instituted in 1975 and in the said proceedings, the Disciplinary Authority imposed the penalty of reduction to a lower stage at Rs.550/- for a period of one year. The second charge-sheet was instituted in December, 1982 and the exoneration order dated 20.6.1984 pertained to that order. There was a third proceeding instituted in 1986 and the applicant was charge-sheeted in April, 1986 and the proceedings were still pending. It is, therefore, obvious that

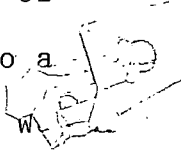
the exoneration drawn up will have no effect on the proceedings in 1986. These were separate proceedings. There is no doubt that the third charge-sheet against the applicant remained pending on the date of his supranuation.

The only question, therefore, is that the pay and allowances to be paid to the applicant during the period of his suspension in respect of the second charge-sheet ought to have been decided by the Disciplinary Authority and not kept pending or tagged on till the decision of the disciplinary proceedings in the 3rd charge-sheet. These two have no connection.

The position is that as far as the second charge-sheet is concerned, the exoneration completes the matter except that the question of the pay and allowances during the period of suspension remains undecided. The order tagging them all till the completion of the existing disciplinary proceeding (on the basis of the 3rd charge-sheet) is being challenged as bad in law. In our opinion, if second proceeding continued the matter could be kept pending, but in respect of the second charge-sheet he was completely exonerated. As such he was entitled to the status quo ante. An order should have been passed regarding his pay and allowances during the period of his suspension. This could not be kept pending indefinitely.

We would like to state that we were not informed during the course of hearing whether the 3rd proceeding had been completed or not and whether any order had been passed for pay and allowances during suspension in respect of the second charge-sheet. We assume that no orders have been passed and the disciplinary proceeding in respect of the third charge-sheet is still pending.

We would, therefore, quash that part of the order dated 25.7.1984, which contains a direction 'The orders regarding payment of pay and allowances to be paid to him during the period of suspension, will be issued after completion of the disciplinary proceedings against him'.

Learned counsel also stated that the provisional pension as well as G.P. Fund and the last pay had been paid, but the Gratuity and the Leave Encashment had not been paid. Reference was made to the provisions of FR 54 regarding the pay and allowances to be paid to a Govt. servant during the period of suspension.  have noted the same. Rule FR 54(2) also provides:


"Where the authority competent to order reinstatement is of opinion that the Government servant who had been dismissed, removed or compulsorily retired has been fully exonerated, the Government servant shall, subject to provisions of sub-rule(6), be paid the full pay and allowances to which he would have been entitled...."

We do not wish to comment as to what order should be passed under FR 54, but we direct the respondents to decide the question of pay and allowa-

ag

nces during the period of suspension under the second charge-sheet within a period of one month of the receipt of a copy of this order, if it has not been decided. We further direct the respondents to consider the question of payment of other retiral benefits to the applicant provided no adverse order has been passed under the third charge-sheet.

With these directions, the O.A. is disposed of. Parties are left to bear their own costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(AMITAV BANERJI)  
CHAIRMAN

'SRD'