

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1905/87. 198  
T.A. No.

DATE OF DECISION 11.4.1988

Shri Hari Narain

Petitioner Applicant

In person

Advocate for the Petitioner(s)

Versus

Union of India & Anr.

Respondents

Shri M.L. Verma

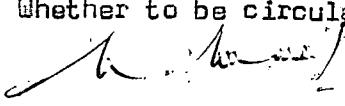
Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Administrative 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
4. Whether to be circulated to all the Benches ? No

  
(KAUSHAL KUMAR)  
MEMBER

  
(K. MADHAVA REDDY)  
CHAIRMAN

11th April, 1988.

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

DATE OF DECISION: 11.4.1988.

Regn. No. O.A. 1905/87.

Shri Hari Narain ... Applicant

vs.

Union of India & Another ... Respondents.

Coram: Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

Hon'ble Mr. Kaushal Kumar, Member.

For the Applicant: Applicant in person.

For the respondents: Shri M.L. Verma, Counsel alongwith  
Shri M.N. Kalra, Under Secretary.

JUDGMENT

(delivered by Hon'ble Mr. Justice K. Madhava Reddy, Chairman)

The applicant, who is a Research Assistant Grade I (Selection Grade), C.F.P. Branch, in the office of the Forest Research Institute and Colleges, calls in question the order of suspension dated 7.9.1987 made against him with immediate effect pending investigation into an alleged criminal offence.

An offence of having obtained a false Scheduled Tribe Certificate is alleged to have been committed by him. No charge-sheet has yet been filed. Questioning the order of suspension, he preferred an appeal. The appeal was first rejected on 8.3.1988.

In supersession of that order, another order No. 2-7/86-P.2 dated 30.3.1988 was passed upholding suspension. The grievance of the applicant is that so far neither any charge-sheet has been filed in the criminal court nor any disciplinary proceedings have been initiated against him. The process is

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being unnecessarily prolonged and now more than six months have elapsed since the suspension order was made on 7.9.1987. He also pleads that the appeal filed by him has been dismissed by a non-speaking order and the review petition filed by him against that order has also not been disposed of as yet.

2. So far as his grievance that the Review Petition has not been disposed of is concerned, sub-section (4) of Section 19 of the Administrative Tribunals Act, 1985, which lays down that when an application has been admitted by the Tribunal, no appeal or representation in relation to such matters pending before the Tribunal can be entertained or disposed of, stands in his way; it abates. Obviously, in view of this embargo, no order has been passed on the Review Petition.

3. The contention of the applicant that the suspension order lapsed because of the efflux of time cannot be upheld having regard to sub-rule (5) of Rule 10 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 which reads as under:-

"(5)(a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a Government servant is suspended or deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government servant shall continue to

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be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or deemed to have made the order or by any authority to which that authority is subordinate."

4. The order of suspension made on 7.9.1987 would continue to remain in force until it is modified or revoked by the authority competent to do so. The disciplinary proceedings have not yet concluded. No order revoking the suspension has been made. Hence, the applicant continues under suspension. However, as rightly pointed out by the applicant that while the order of suspension may be in force, investigation should have been completed within a period of three months as envisaged by the departmental instructions contained in Office Memorandum No. 39/39/70-Ests(A) dated the 4th February, 1971 issued by the Government of India, C.S., Department of Personnel. The relevant part of that O.M. reads as under:-

"..... every effort should be made to file the charge-sheet in court or serve the charge-sheet on the Government servant, as the case may be, within three months of the date of suspension, and in cases in which it may not be possible to do so, the disciplinary authority should report the matter to the next higher authority explaining the reasons for the delay."

5. A subsequent O.M. issued by the Government of India, Ministry of Home Affairs, Department of Personnel & Administrative Reforms vide O.M. No. 42014/7/83-Estt.(A) dated the 18th February, 1984 further directs that the provisions of the aforesaid instructions in the matter of suspension of Government employees

*Ans*

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and the action to be taken thereafter should be followed strictly. In order to ensure that the above instructions are scrupulously observed by subordinate authorities, DGP&T's letter No. 201/43/76-DISC.II dated 15th July, 1976, directs that all cases of suspension should be reviewed regularly, particularly those cases where officials are under suspension for more than six months and wherever it is found that the official can be allowed to resume duties by transferring him from his post to another post, orders should be issued for revoking the suspension and allowing the official to resume duties.

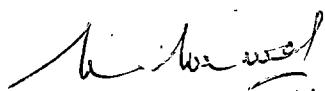
6. Instructed by Shri M.N. Kalra, Under Secretary, it was stated at the bar by Shri M.L. Verma, learned counsel for the respondents that the applicant's case was not reviewed as envisaged by the aforesaid D.Ms. Even if that was done, now that more than six months have elapsed, the case of the applicant calls for a fresh review. As the review petition against the order of suspension is still pending, that has to be disposed of on its own merits for, that review is directed against the order of suspension itself. Any order passed thereon does not absolve the respondents from the obligation to review the case of the applicant who has been under suspension now for more than six months. Even if the original order of suspension were held to be valid, the competent authority is required to take the disciplinary proceedings and file charge-sheet

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in the criminal case expeditiously and pending that, consider whether the suspension should be continued at all. In the circumstances, while not quashing the order of suspension, this application is allowed in part and the respondents are directed to dispose of the review petition. Even if the review petition is rejected, the competent authority is directed to consider the question whether the applicant should be continued under suspension.

7. This order shall be complied with by the respondents within a period of two months from the date of its receipt by them.

8. Application is disposed of with the above directions, with no order as to costs.



(KAUSHAL KUMAR)  
MEMBER



(K. MADHAVA REDDY)  
CHAIRMAN

11.4.1988.