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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH.
NEW DELHI.

OA 390/87 Date of Decision: April 06, 92.

SHRI S.K. BAJAJ ... APPLICANT.

VS.

UNION OF INDIA & ANR. ... RESPONDENTS.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant ... Shri H.B. Srivastava,
Counsel.

For the Respondents ... Shri R.L. Dhawan,
Counsel.

P.H. Ramchandani

*Consulted with
order of 18.5.92
for reference*

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporters or not?

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J).)

The applicant, at the relevant time, was Welfare Officer, Central Social Welfare Board, New Delhi under the Ministry of Human Resources. The Central Social Welfare Board was registered as a Society having its own Memorandum and Articles of Association (Annexure R-2). It was having a

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Chairman and the Executive Committee to run the Society which was in the form of a Commissioner in co-operation under Section 25 of the Companies Act, 1956. The grievance was about the appointment of the Chairman of the Company. The Govt. with the consultation of the Chairman of the Company nominated the Executive Director and the internal Financial Advisor - cum - Chief Accounts Officer. The administration of the Central Social Welfare Board vested in an executive committee as per Article 10 of the Articles of the Association. Under Article 12, Sub Clause (J), the committee had the authority to the delegate executive committee of the company such administrative and financial powers as it may deem fit.

2. It is not disputed that Smt. Sushila Rohatagi was the Chairman, who joined on 18.1.85. An agenda was circulated for 72nd Meeting of the Executive Committee of the Central Social Welfare

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Board (CSWB) on 30th March, 1985. In this agenda Mrs. Veena Kohli, Director, Ministry of Social and Women Welfare was given charge of the post of Executive Director CSWB by Govt. of India w.e.f. 14.2.85. The matter came up before the Executive Committee to approve the working arrangements till the appointment of the Chairman of the said Board as per Article 10 of the Articles of the Association. The minutes of the Meeting (Annexure A-15) have been filed by the applicant and the Executive Director has be delegate the financial and administrative powers of the Chairman from 14.2.85, till the new Chairman takes over. This is item No.3 of the 72nd meeting.

3. The grievance of the applicant is that said Mrs. Veena Kohli passed an order dated 26.4.85 (Annexure A) suspending the applicant under Rule 10 sub-rule 1 clause b of the CCS (CCA) Rules, 1965, but she was not competent as the appointing authority of the applicant is the Chairman. However, this suspension order has

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since been revoked by the Chairman by the order dated 26.4.89 and the applicant has been given all consequential benefits on the same line as if the applicant has been in continuous in service but the grievance of the applicant is still left with regard to the relief in para 9 (iv) regarding the cost of the application. Relief Nos. 1 to 3 of para 9 stand allowed to the applicant during the pendency of this application since March, 1987.

4. The contention of the applicant is that he wants a decision on the point whether said Mrs. Vaena Kohli was competent to suspend the applicant or not as he felt very much and also humiliated among his family members.

5. In view of the above, short point involved in the case various other points taken by the applicant are not referred to in detail in the order.

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6. The respondents contested the application and filed the reply denying the various statement of facts alleged by the applicant. The respondents in para 3 of the counter stated that said Ms. Veena Kohli was competent to suspend the applicant and the relevant portion is reproduced below:-

"It is submitted that at the relevant time, there was no full time Executive Director in the Board and Miss Veena Kohli, who is Director in the Ministry of Social and Women's Welfare was holding concurrent charge of the post of Executive Director in the Board till the alternative arrangements were made. It is also submitted that the Executive Committee of the Board in its 172nd meeting held on 30.3.1985 had delegated the financial and administrative powers of the Chairman to the Executive Director w.e.f. 14.2.1985. It would thus be seen that Miss Veena Kohli was perfectly competent to place the applicant under suspension."

7. I have gone through the various contentions raised by the applicant appearing in person and the Govt. of India's instructions below Rule 17 of ICS (G.A.) Rules, 1954 an extract from the same has also been filed

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alongwith rejoinder as Annexure R-3. Actually Rule 17 of the Rules provides for punishment while the relevant rule for suspension is Rule-10 of the U.S. (USA) Rule, 1975. The impugned order goes to show that the applicant has been suspended under Rule 12 sub-rule 1 clause-b which reads out "where a case against him in respect of any criminal offence is under investigation, enquiry or trial". The applicant was facing a US enquiry on the basis of YTR regarding certain financial matters.

8. I have patiently heard the applicant in person and I find that the points he has urged are not based on any rule, instructions or precedent. In the absence of the Chairman, the Executive Director can be delegated powers of the Chairman under Articles of the Association of the society. In the 72nd Meeting dt. 14.2.85 the resolution of the executive body, as is evinced by extract of the proceedings of the

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meeting (Annexure A-15), filed by the applicant himself Mrs. Veena Kohli has been duly appointed in this regard to discharge the function of the Chairman. In that event she has every authority and power to pass an order in the capacity of designated administrative head. The applicant has pressed that she could not exercise any statutory power under Section 10 of the CCS (CCA) Rules, 1965. For the effective administration even the statutory powers can be exercised without any specific authorisation.

It appears that the suspension of the applicant has been because of a criminal investigation, which has been fairly admitted by the applicant during the course of the arguments. Under Section 10 sub-clause 1 clause B, the power can be exercised even in the case where an investigation on a criminal offence is going on

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-8-

against a person. The contention of the applicant regarding malice, Mrs. Veena Kohli has not been made a party so that she may place her case before the Tribunal. IN fact in the application there is no allegation of malafide so she has not been implemented by name.

10. In view of the , the present application is disposed of as follows:-

Relief Nos.1 to3 of clause-9 have become infuctuous as the same stand allowed to the applicant during the pendency of this application by the revocation and the suspension order dt. 26.4.89. Regarding relief No. 4, which the applicant has pressed. I do not find any merit,so disallowed. The application is rejected with no order as to costs.

J.P. Sharma

(J.P. SHARMA)

6.04.92

MEMBER (J)