

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

D.A. 427/1987.

Date of decision: September 3, 1992.

Shri S.P. Jain ... Petitioner.

Vs.

Union of India & others ... Respondents.

CORAM :

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN

HON'BLE MR. I.K. RASGOTRA, MEMBER (A).

for the petitioner ... Shri P.P. Khurana, counsel

for the respondents ... Shri K.C. Mittal, counsel

JUDGMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The challenge in this case is to the suspension of the petitioner which was effected by order dated 26.8.1986. The petitioner was holding the post of Programme Executive, External Services Division in the All India Radio. It is pending contemplation of the disciplinary proceedings that the order of suspension was passed. In this petition filed in the year 1987, the petitioner has questioned the justification for keeping him under suspension and also the justification for his continued suspension for considerable period. Matters like this, it is obvious ought to be disposed of with utmost expedition by the Tribunal. It is unfortunate

that the matter has been lingering here for almost five years.. We cannot be unmindful of the subsequent events that have taken place in the matter of the ultimate relief that should be granted to the parties who have approached the Tribunal.

2. It is now brought to our notice that the disciplinary enquiry is at an advance stage, in the sense that the evidence has been recorded. Shri K.C. Mittal, learned counsel for the respondents submitted that it would be possible for them if they exert themselves to complete the disciplinary enquiry by the end of October, 1992. He, therefore, submits that it is enough in the circumstances to call upon the respondents to complete the disciplinary proceedings within the specified time. He submits that suspension having remained for almost six years, there is no reason to disturb the same at the fag end of the disciplinary proceedings. Shri P.P. Khurana, learned counsel for the petitioner, however, strongly contends that the petitioner should not be penalised for the situation he has been subjected to ^{for no fault of his.} It was submitted that the petitioner has been under torture for nearly six years, being under suspension. He, therefore, submits that the suspension should be terminated forthwith and the petitioner should be inducted without prejudice of the right of disciplinary enquiry and also in regard to the manner in which the period of suspension should be treated. It is necessary to bear in mind that

one of the contentions taken by the respondents in the reply is that the petitioner had been evading the receipt of the chargesheet and has not been cooperating. They, therefore, contended that it is the conduct of the petitioner in evading the receipt of the communication from the enquiring authority that has contributed to considerable delay. It is not disputed that the chargesheet was served in 1991 and thereafter considerable progress has been made. It is in this background that we have to examine the case.


3. As the disciplinary enquiry is nearing completion, we are inclined to take the view having regard to the peculiar facts that we need not decide the question of the petitioner evading service of the chargesheet as alleged by the respondents as it may have a bearing on the ultimate decision in the disciplinary proceedings. We should also bear in mind that unfortunately the petitioner has been kept under suspension for such a long period and the enquiry is about to be completed within a short period. In this background without going into the rival contentions, we propose to dispose of this petition in the interest of justice with the following directions:

- (1) The respondents shall complete the disciplinary enquiry and pass final orders before 31.10.1992.
- (2) In the event of the respondents not passing the final order in the disciplinary proceedings on or before 31.10.1992, the petitioner shall stand reinstated in service with effect from the 2nd November, 1992, and he shall become

entitled to be reinstated in service without any formal orders from the competent authority. He shall be reinducted in service from that date and paid full salary and emoluments attached to his post.

- (3) In the event of the disciplinary authority passing final orders in the disciplinary proceedings before the 30th of October, 1992, the question of reinstatement of the petitioner shall abide by the decision of the disciplinary authority.

We have no doubt that the petitioner would cooperate in the disciplinary proceedings and we have no doubt that the disciplinary authority will act reasonably and objectively in the matter of disposing of the disciplinary proceedings. With the above directions, the petition is disposed of with no order as to costs. Copy of this order be given to both the sides forthwith.


(I.K. RASGOTRA)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN