

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

MP 1080 in

O.A. No. 648
T.A. No.

1987.

DATE OF DECISION September 29, 1987

Shri C.L.Bakolia,

Petitioner

Ms. Sandhya Goswami,

Advocate for the Petitioner(s)

Versus

Union of India and others

Respondent s.

Shri M.K.Gupta, on behalf of

Advocate for the Respondent(s)

Shri K.C. Mittal

CORAM :

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

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether to be circulated to other Benches? *No*

Kaushal Kumar
(Kaushal Kumar)

Member

29.9.1987.

K. Madhava Reddy
(K. Madhava Reddy)

Chairman

29.9.1987.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

MP No.1080 in
Regn. No. OA 648/87.

September 29, 1987.

Shri C.L. Bakolia Applicant.

Vs.

Union of India and others ... Respondents.

CORAM:

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

Hon'ble Mr. Kaushal Kumar, Member.

For the applicant ... Ms. Sandhya Goswami, counsel

For the respondents ... Shri M.K.Gupta, counsel on
behalf of Shri K.C.Mittal,
counsel for the respondents.

(Judgment of the Bench delivered by
Hon'ble Mr.Justice K.Madhava Reddy,
Chairman).

This is an application under Section 19 of the
Administrative Tribunals Act,1985, calling in question
the order of suspension dated 7th October, 1985 made
against the applicant pending investigation into a
criminal offence. So far, neither any chargesheet has
been filed in a criminal court nor has any chargesheet
been served on the applicant in disciplinary proceedings,
if any, contemplated. It is now more than 2 years
that the order of suspension has been operating
against the applicant. All that is stated in the
reply filed by the respondents is that the matter was
reported to the CBI and the report of the CBI dated
31.12.1986 was received on 8.1.1987. A further report
of the CBI was also received on 22.7.1987. Although
it is now more than 8 months since the first report
was received and more than three months since the

second report was received, the respondents have not chosen to serve any chargesheet on the applicant. A Bench of this Tribunal to which one of us (Madhava Reddy, J,) was a party in OA No.50/87 quashed the suspension order in almost identical circumstances. In that case noticing that more than 1½ years had elapsed since the suspension was ordered and no chargesheet was filed either in criminal court or in any disciplinary proceeding, another Bench of this Tribunal in OA 551/87 and OA 608/87 by judgment dated 1.7.1987 quashed the order of suspension made against Income Tax Officers similarly placed.

In CHAUHAN Vs. STATE OF U.P. (1) the Supreme Court has held:

"If a Government servant is placed under suspension for an indefinite period of time, it would certainly be against public interest and is liable to be struck down".

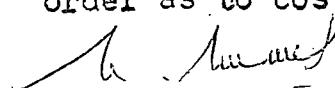
There are also standing instructions that the disciplinary proceedings themselves should be expeditiously disposed of and the government servant should not be kept under suspension indefinitely. Suffice to refer to O.M. dated 14.9.1978 issued by the Government of India, Ministry of Home Affairs which reads as follows:-

"In spite of the instructions referred to above, instances have come to notice in which Government servants continued to be under suspension for unduly long periods. Such unduly long suspension, while putting the employee concerned to undue hardship, involves payment of subsistence allowance without the employee performing any useful service to the Government."

It is, therefore, impressed on all the authorities concerned that they should scrupulously observe the time limits laid down in the preceding paragraph and review the cases of suspension to see whether continued suspension in all cases is really necessary. The authorities superior to the disciplinary authorities should also give appropriate directions to the disciplinary authorities keeping in view the provisions contained above*.

In view of the above, the order of suspension dated 7th October, 1985 is quashed. All emoluments due to the applicant for the period of suspension until reinstatement in pursuance of this order shall be determined by the respondents in accordance with the rules within a period of two weeks from the date of receipt of this order. The applicant shall be allowed to join duty immediately. However, we hasten to add that if at a later stage, either a chargesheet is filed in a criminal court or a chargesheet is served on the applicant in any departmental proceedings and if the gravity of charges levelled against the applicant warrant any action to be taken, nothing said herein will preclude the respondents from taking such action as they may deem fit in the then circumstances. It would also be open to the applicant to question any order passed against him.

The application is accordingly allowed with no order as to costs.


(Kaushal Kumar)

Member
29.9.1987.


(K. Madhava Reddy)
Chairman
29.9.1987.