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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN. NO. O.A. 851/87.

DATE OF DECISION: 27.10.1992.

Mrs. Rita Bhatia.

... Petitioner.

Versus

Union of India & Ors.

... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner. Shri M.K. Gupta, Counsel.

For the Respondents. Shri P.P. Khurana, Counsel.

JUDGEMENT (ORAL)

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

After this case was heard at some length, a submission was made by the learned counsel for the petitioner that this is a case which deserves utmost sympathy at the hands of the court having regard to the facts and circumstances of the case. The petitioner has been removed from service holding two charges levelled against her duly proved. It is held that the petitioner, Mrs. Rita Bhatia, while functioning as Lower Division clerk in the month of December, 1980 abstained from her work unauthorisedly from 1.12.1980 to 5.12.1980 in violation of the circular dated 30.11.1980 (Annexure P-I) by which the personnel of R&AW who had threatened to go on pen down strike were warned that if they resorted to such strike, in addition to taking disciplinary action against them, they would not be paid any emoluments on the principle of 'No work - No pay'. The second

charge held proved against the petitioner is that on 24.12.80 she made efforts while in office to collect money from her colleagues for supporting the cause of some dismissed and arrested R&AW employees and for the continuance of the agitation. The disciplinary authority having imposed the penalty of removal from service, the same has been affirmed by the appellate and reviewing authority. The last impugned order was passed on 6.6.1986. It is also brought to our notice that several colleagues of the petitioner who were subjected to criminal prosecution and dismissed or removed from service have been taken back in service after withdrawing the criminal charges levelled against them. The respondents have taken the stand in the reply that lenient treatment was given to them for the reason that they had admitted their guilt and prayed for mercy whereas no such attempt was made by the petitioner at any time during the course of these proceedings. These facts make it clear that the administration was willing to forgive such employees who participated in the pen down strike or tried to help the colleagues who were dismissed or arrested in connection with the same. This gives an indication that if the petitioner had likewise/ repented and admitted her guilt and sought mercy, she would also have been taken back in service by the administration. The fact that the petitioner has persisted in litigating does not mean that she should not have an opportunity to retrace her steps in the same manner in which her other colleagues have done.

2. The petitioner having realised the gravity of the situation and the mistake committed by her submitted through

her counsel that she would like to withdraw this petition, admit her mistake and give assurance that she would not commit such mistake hereafter and conduct herself in a proper manner. It was also submitted that she would give up her all claims of arrears of emoluments till her reinstatement if she is reinstated in service. As the petitioner herself was present in the court, we instructed the counsel to secure instructions from her and make his submissions in this behalf. Accordingly, he had discussion with his client and on her instructions he submitted that she would like to take the steps, as aforesaid, and file a representation before the concerned authorities on the aforesaid lines.

3. In the normal circumstances, we having heard the case should have recorded findings and given our judgement. But having regard to the special facts and the manner in which the petitioner has placed her case, we thought it proper to accede to the request of the petitioner not to proceed to judgement.

4. The petitioner having realised her mistake assured that she would not commit such mistake hereafter and conduct herself in a proper manner and having given an undertaking to give up her claims of arrears of emoluments, we are inclined to take the view that on the petitioner making a representation incorporating these aspects, the concerned authorities ought to

bring to bear upon the said representation their best and sympathetic consideration. We see no good reason why in the circumstances the petitioner should not be treated in the same way in which the others prosecuted and thereafter removed from service from the same department have been treated. We say so also for the reason that the charges levelled against the petitioner which have been held proved are not such as to dissuade the Government not to show sympathetic consideration. The petitioner has already suffered enough during the last 10 years and she has also lost financially. She has undertaken to forego her claims of arrears of emoluments on her reinstatement in service. Each and every one of these circumstances, in our opinion, justify the most sympathetic consideration in the matter of reinstating the petitioner in service, protecting her seniority etc., but denying her the benefits of arrears of emoluments.

5. We, therefore, direct that if the petitioner makes a representation on the aforesaid lines to the Secretary, R&AW, within two weeks from this date the same shall be processed expeditiously and dealt with utmost sympathy and consideration in the light of the observations which we have made during the course of the judgement.

6. With the above observations, this petition is dismissed as withdrawn unconditionally. No costs.

Subhash
(I.K. RASGOTRA)
MEMBER(A)

Malimath
(V.S. MALIMATH)
CHAIRMAN