

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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OA 495/90

Date of decision: 26-7-1990

PURAN SINGH BHIST APPLICANT

VERSUS

DELHI ADMINISTRATION RESPONDENTS

ADVOCATES:

Shri R.N. Saxena ... for the applicant.

Shri M.M. Sudan ... for the respondents.

CORAM:

Hon'ble Shri P.K. Kartha, Vice-Chairman (J)

Hon'ble Shri P. Srinivasan, Administrative Member.

J U D G E M E N T

(Judgement of this Bench delivered by
Hon'ble Shri P. Srinivasan, Member (A))

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The application has been listed before us for
directions today after notice to the respondents.

Shri R.N. Saxena, learned counsel for the applicant and
Shri M.M. Sudan, learned counsel for the respondents
present in Court, submit that the application can be
heard and disposed of finally today. We have, therefore,
heard both the parties.

The applicant who was working as an UDC in
the Directorate of Transport, Delhi Administration was
suspended from service by an order dated 6-12-1988
(Annexure I). The order reads as follows:-

"Whereas a case against Shri Puran Singh Bisht,
U.D.C. in respect of a criminal offence is under
investigation.

And whereas the said Shri Puran Singh Bisht was
detained in custody on 30-11-88 for a period exceeding
forty eight hours.

Now, therefore, the said Shri Puran Singh Bisht

P. S. Srinivasan

is deemed to have been suspended with effect from the date of detention, i.e. 30-11-88 in terms of sub-rule (2) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, and shall remain under suspension until further orders.

It is further ordered that during the period that this order shall remain in force the Headquarters of Shri Puran Singh Bisht, U.D.C. should be the Union Territory of Delhi and the said Shri Puran Singh Bisht shall not leave the headquarter without obtaining the previous permission of the undersigned."

The grievance of the applicant is that even though more than 20 months have passed since he was placed under suspension, no charge-sheet has been filed in the criminal court initiating criminal action against him. Shri Saxena submits that, in the circumstances, the respondents should be directed to revoke the applicant's suspension. Other persons who were suspended pending initiation of criminal cases against them, have been re-instated.

Shri M.M. Sudan, learned counsel for the respondents submits that in May, 1990, the respondents received a communication from the Anti Corruption Police that the case of the applicant was still under investigation for want of a report from Central Forensic Laboratory. Thereafter, the police had not so far filed any charge-sheet against the applicant in the criminal court. The applicant had represented that his suspension be revoked but the respondents had rejected the request because of the sensitive nature of the allegation against him. The allegation against the applicant was that he had issued ^{of false} ~~fake~~ permits to ply motor cycle/rikshaws in Delhi and since this allegation ^{involves} ~~involved~~ moral turpitude, it ^{purported} was not considered properly to re-instate the applicant.

We have considered the matter carefully. Suspension is not a punishment but it has the effect of reducing the income of the Govt. servant concerned. It should not be continued, if either departmental

proceedings or criminal prosecution is not initiated against the delinquent Government servant. We agree that the respondents were right in suspending the applicant in the first instance in terms of Rule 10(2)(a) of the CCS(CCA) Rules. In fact, the said rule 10(2)(a) provides for deemed suspension of a Government servant who is detained in custody for more than 48 hours, whether on a criminal charge or otherwise. The applicant was detained in custody for over forty eight hours. However after having done so, the respondents should have acted promptly and ensured that the chargesheet was filed in Court without undue delay. We find that in May, 1990, the Police informed the respondents that investigation was still going on and a ^{M report} ~~request~~ from the Forensic laboratory was still awaited. We are told that till now, that is, two months later, nothing further has been heard from the Police. In other words, a Democles sword has been kept hanging over the applicant's head ^{M.} ~~service~~ since December, 1988 for over a year and his suspension has been continued. Under Rule 10(5)(a) of the CCS(CCA) Rules, an order of suspension made or deemed to have been made, should continue to remain in force till it is revoked or modified by the Competent authority. In our opinion, it was not reasonable for the respondents to reject the applicant's plea for revocation of suspension merely because the charge against him was serious. We are, therefore of the view that in all fairness to the applicant, either a charge sheet should be filed in Court within three months from today or if that is not done, the suspension of the applicant should be revoked and he should be reinstated and be given a posting in a department where he will not be required to deal sensitive matters or to be in contact with members of the public regularly.

[Signature]

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The application is disposed of on the above terms at the admission stage itself, leaving the parties to bear their own costs.

P. Srinivasan *He*
26/7/90
(P. SRINIVASAN)
MEMBER (A)

P.K. Kartha
26/7/90
(P.K. KARTHA)
VICE CHAIRMAN