

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

Date of Decision: 23.4.93

OA 1733/91

SHRI CHANDRA SHEKHAR

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

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

HON'BLE SHRI S.R. ADIGE, MEMBER (A).

For the Applicant

... SHRI B.S. MAINEE.

For the Respondents

... SHRI R.S. AGGARWAL.

J U D G E M E N T

(DELIVERED BY HON'BLE SHRI S.R. ADIGE, MEMBER (A).)

This is an application dt. 30.7.91 filed by Shri Chandra Shekhar, Inspector of Income Tax (under suspension), for quashing of the suspension order dt. 10.7.80 (Annexure A-4), and reinstatement.

2. Briefly stated, on the basis of the competitive examination held by the Subordinate Services Commission in 1977 for the direct appointment to the post of Inspector of Income Tax, The applicant was selected for appointment on 10.1.79 against the reserved vacancy of Scheduled Caste (Annexure A-2) and

was appointed as such w.e.f. 19.1.79 vide order dated 22.7.79 (Annexure A-3). Shri Chandra Shekhar, while submitting his application to the Commission claimed to be the son of Shri Ram Dhani Ram, a Harijan by caste. In the character and antecedents verification form he had shown the name of his father as Late Shri Ram Dhani Ram, and in support of his claim he filed a photo-stat copy of Scheduled Caste certificate dated 7.4.76 issued by the SDO Jhanjharpur, Distt. Madhubani, Bihar. Soon after the respondents received information that the S.C. certificate on the basis of which the applicant had secured appointment was false and the D.M. Madhubani after due verification had cancelled the same. Since the applicant had furnished totally false information and secured appointment by misrepresenting to the authorities about his true civil status, a criminal case was instituted against him in 1979, and he was placed under suspension vide order dated 10.7.80 (Annexure A-4).

3. The applicant contends that although the criminal case was instituted against him in 1979, the summons was received by him as late as on 2.5.89, directing him to appear in the court of the Judicial Magistrate Ist Class, Jhanjharpur, on 20.6.89 (Annexure A-10). The applicant challenged the case before the District & Sessions Judge, Madhubani, on the ground that cognizance u/s 468 Cr.P.C. was time barred, but the same was turned down against which the applicant filed Cr.Misc. Petition No. 11617/89 in the Patna High Court, which was admitted and the

opposite party were noticed to appear and meanwhile further proceedings have been stayed pending disposal of the application vide order dt. 13.11.89 (Annexure A-4).

4. Meanwhile, the applicant also filed CWJC No.1300/91 in the Patna High Court challenging the D.M. Madhubani's order cancelling the caste certificate issued to him by the SDO, Jhanjharpur, on the ground that he did not belong to the Scheduled Caste. The High Court, by its order dated 7.5.91, allowed this Writ Application and quashed the D.M.'s order cancelling the caste certificate on the ground that the same had been passed without giving the applicant an opportunity of being heard. The High Court however observed that it would be open to the D.M. to take steps for cancellation of the caste certificate granted to the applicant if after hearing him the D.M. was satisfied that the applicant did not belong to the Scheduled Caste. The D.M. was directed to pass a reasoned order in case he cancelled the caste certificate.

5. Accordingly, the D.M. Madhubani, after hearing the applicant on 9.4.92 and perusing all the available materials on record, passed a detailed and reasoned order which was forwarded vide his Office Memo No.42(Mer)/Legal dated 21.5.92 holding categorically that the claim of the applicant to belong to the Scheduled Caste community could not be accepted and affirming the cancellation of the S.C. certificate issued by the

SDO Jhanjharpur on 7.4.76. The applicant filed an appeal against that order before the Commissioner, Darbhanga Division, Bihar, which was admitted on 8.7.92 and is pending disposal. No stay orders have been passed on that appeal.

6. During arguments, Shri Mainee, learned counsel for the applicant, vehemently argued that keeping a Govt. servant under suspension for such a long period was illegal, violative of the established law, damaging to the applicant's reputation, wasting of Govt. money inasmuch as subsistence allowance^{Am} ~~was~~^{Am} paid without any work being taken by the applicant, against the public interest, arbitrary, discriminatory and malafide. He urged that since the investigation had completed and relevant documents were already in possession of the respondents, there was no scope for ^{Am} tampering with the same and, therefore, the grounds for continuation of the suspension order did not survive. He cited a large number of rulings in support of his contentions ^{including Am} ~~as~~ Shoor Vir Singh (SLJ 1988 (2) 187), Abullias Khan Vs. State of West Bengal (CAT 1986 Vol.II 97), D.Mangleshwaran Vs. C.I.T. (1987 (2) ATC 828), P. Chandra Manoharan Vs. UOI (ATC 1987 (4) 979), Chauhan Vs. State of U.P. (1977 AWC 704), J.K. Varshneya (ATC 1988 (8) page 1), Kamal Kishore Prasad Vs. UOI (ATJ 1990 (1) 227) and Ashok Kumar Seth Vs. State of Bihar (ATR 1988 (1) 222), and argued that in the light of the same, the suspension order was fit to be quashed.

7. On the other hand, Shri Aggarwal, learned counsel for the respondents, argued that in the light of the findings of

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the D.M. Madhubani that the caste certificate submitted by the applicant was patently false, it was manifest that he had secured appointment through fraudulent means, the penalty for which was dismissal from service and, therefore, under rules there was no question of vacating the suspension order against the applicant.

8. He also urged that steps were being taken to conclude the departmental proceedings expeditiously.

9. It is nobody's case that period of suspension of a Govt. servant should be prolonged indefinitely, and he should be kept under suspension for a period longer than what is required in the light of the facts and circumstances of each case. It scarcely needs reiteration that suspension of a Govt. servant involves social stigma, moral obloquy, financial distress and mentally strain to the concerned individual, while to the Govt. it involves payment of subsistence allowance without securing any work. That having been said however, it must be noted that in this particular case, ^{the} delinquent himself has contributed to some extent in the prolongation of the suspension, by challenging the cancellation of the caste certificate issued to him in the Patna High Court. It is well settled that where the charges against the Govt. servant ^{if proved} are serious enough to warrant ^{the} dismissal ^{from} service, ordinarily, ^{it} is a fit case to suspend that Govt. servant, and in this particular case, as the D.M. Madhubani

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after giving the applicant full opportunity of being heard and perusing all the materials on record, has come to a clear and categorical finding that the caste certificate furnished by the applicant in securing employment as a S.C. candidate was a false one, the charge is certainly serious enough ^{if proved.} to warrant the applicant's dismissal from service. Under the circumstances, even though the applicant has remained suspended for a long period, this is not a fit case for ^{the} revocation of the suspension order at this stage.

10. However, the respondents are directed to ensure that the departmental proceedings against the applicant are concluded within six months from the date of receipt of a copy of this order.

11. Although no specific relief has been claimed in the OA regarding enhancement ^{of} of subsistence allowance, during arguments Shri Mainee urged that the subsistence allowance has been fixed at 50% of the applicant's salary ever since the date of suspension, and ^{this} ~~this~~ allowance has not been raised, in spite of the passage of such a long time, and the increasing prices etc. during this period with the result that the applicant is facing great financial hardship. The respondents are directed to review the case of revision of the subsistence allowance payable to the applicant in accordance with the extant rules, and pass a reasoned order thereon, within two months of the date of receipt of a copy of this order.



12. This application is disposed of accordingly in terms of the directions issued in paragraphs 10 and 11 above. ^{as} No costs.

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(S.R. ADIGE)
MEMBER (A)

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(J.P. SHARMA) 23.4.92
MEMBER (J)