

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO. 1766/91

DATE OF DECISION: 06.04.1992.

SHRI P.N. GUPTA

APPLICANT

VERSUS

UNION OF INDIA

RESPONDENT

CORAM:-

HON'BLE MR. S.P. MUKERJI, VICE-CHAIRMAN

HON'BLE MR. T.S. OBEROI, MEMBER(J)

COUNSEL FOR THE APPLICANT : SH. D.S. JAGOTRA

COUNSEL FOR THE RESPONDENTS : MRS. RAJ KUMARI CHOPRA

1. Whether Reporters of local papers may be allowed to see the Judgment? Yes
2. To be referred to the Reporter or not? No.

JUDGMENT(ORAL)

(Delivered by Hon'ble Mr. S.P. Mukerji, Vice-Chairman).

The prayer in this application is that the respondents be directed to regularise the applicant's suspension period from 5.10.1984 to 20.10.1989 and treat the entire period as duty for all purposes and that full pay and allowances for that period be paid to him. He has also claimed TA/DA as on tour when he had gone to Dehradun to attend the court case. Inspite of several adjournments, the respondents did not file any counter-affidavit even though the application was admitted on 7.10.1991. A Division Bench of this Tribunal on 10.02.1992, directed the respondents that in case counter is not filed within two weeks from that date, they shall be forfeiting their right to file counter. Till today, no counter-affidavit

has been filed. Accordingly, we proceeded to hear the learned counsel for the applicant and Sh. P.P. Sharma, Asstt. Accounts Officer, appearing on behalf of the respondents on the merits of the application with the following results:

It is admitted that the applicant on the basis of some C.B.I. report was suspended on 5.10.1984 and the order of suspension was revoked on 13.9.1989. A criminal case was filed against the applicant and the charge-sheet was submitted to the court in August, 1986. The criminal proceedings are admittedly still going on. The applicant's prayer is that even though his suspension has been revoked, he has not been given pay and allowances for that period.

We have heard the learned counsel for the applicant and Sh. P.P. Sharma, Asstt. Accounts Officer on behalf of the respondents. F.R.54-B(1) and FR 54-B(6) read as follows:

" F.R 54-B(1) When a Government Servant who has been suspended is reinstated or would have been so reinstated but for his retirement (including premature retirement) while under suspension, the authority competent to order reinstatement shall consider and make a specific order-

(a) regarding the pay and allowances to be paid to the Government servant for the period of suspension ending with reinstatement or the date of his retirement (including premature retirement), as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty.

F.R 54-B(6): Where suspension is revoked pending finalisation of the disciplinary or the court proceedings, any order passed under sub-rule(1) before the conclusion of the proceedings against the Government servant, shall be reviewed on its own motion after the conclusion of the proceedings by the authority in sub-

11

rule (3) or sub-rule (5), as the case may be."

From the above, it is clear that the competent authority to consider and make a specific order about the pay and allowances during the period of suspension and how the period of suspension shall be treated, as soon as suspended government servant is reinstated. This order, however, will be subject to review under Clause-6 above on the finalisation of the court proceedings

In the conspectus of the facts and circumstances, we allow this application in part to the extent of directing the respondents to consider and make a specific order under Clause-1 of FR 54-B regarding pay and allowances to be paid to the applicant during the period of his suspension and whether or not the said period shall be treated as a period spent on duty. This order should be passed within a period of three months from the date of communication of this order.

As regards the prayer for TA/DA, the applicant is directed to file a representation to the competent authority within a period of one month and the respondents are directed to consider his representation and dispose of the same in accordance with law within a period of one month after its receipt.

There will be no order as to costs.

Abey

(T.S. OBEROI)
MEMBER(J)

S.P. Mukerji

(S.P. MUKERJI)
VICE-CHAIRMAN