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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

REGN.NO. O.A. 1773/91.

DATE OF DECISION: 18.11.1992.

B.S. Negi.

..Petitioner.

Versus

Union of India  
through  
The Secretary,  
U.P.S.C.,  
New Delhi.

..Respondent.

CORAM:

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

For the Petitioner.

Shri R.K. Kamal, Counsel.

For the Respondent.

Shri M.L. Verma, Counsel.

JUDGEMENT (ORAL)

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

The petitioner, Shri B.S. Negi, is an Assistant in the office of the Union Public Service Commission. By order dated 22.9.1986 passed by the Secretary, Union Public Service Commission, New Delhi, the petitioner was kept under suspension in exercise of the powers conferred on him by sub-rule (1) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 on the ground that the investigation in respect of a criminal offence against the petitioner is pending. The petitioner is aggrieved by his continuance under suspension for such a long period as nearly six years. Ordinarily, it should have disturbed our conscience goading us to interfere with the order of suspension. But the allegations against the petitioner appear to be of a very serious nature as is clear from the Article of Charge (Annexure-I). For the sake of

convenience, we extract the article of charge as follows:

"The said Shri Bharat Singh, while functioning as an Assistant in Confidential Section VII, UPSC, New Delhi during the period 1985-86 failed to maintain absolute integrity, devotion to duty and exhibited acts unbecoming of a public servant in as much as he helped Shri Rati Pal Saroj, Section Officer/Under Secretary, UPSC, New Delhi in substituting a fresh written answer book of History paper-II in Civil Services (Main) Examination, 1985 in place of original scripts(Answer Book) with the result that Shri Rati Pal Saroj obtained very high marks and was selected and delivered appointment letter dated 31.7.86 by Central Government for the post of Indian Administrative Service Group 'A' services for which he could not have been selected.

And thereby said Shri Bharat Singh Negi contravened rule 3(1)(i)(ii) and (iii) of the CCS (Conduct) Rule, 1964".

2. It is obvious that if the petitioner is guilty of the charge levelled against him, no one can trust a person like this with any responsible work under the Union Public Service Commission. It is in this background that we propose to examine the petitioner's grievance against continued suspension.

3. Shri R.K. Kamal, learned counsel for the petitioner, contended that though the petitioner can be kept under suspension under Rule 10 of the CCS(CCA) Rules, 1965 pending disciplinary inquiry against him, that is not the ground on which the petitioner has been kept under suspension, as is clear from the terms of the order of suspension. Rule 10 also contemplates a delinquent being kept under suspension pending criminal investigation or trial. It is on the ground that criminal investigation was pending against the petitioner that the order of suspension was made under Rule 10. Shri Kamal pointed out that the investigation process is complete and the authorities have decided not to launch any prosecution against the petitioner. That being the position, it was submitted that the entire basis for the continuance of his suspension has since disappeared. There is considerable substance in this contention. It is, however, pointed out by Shri Verma, learned counsel for the respondents, that the authorities who had decided to keep the petitioner under suspension, pending criminal investigation, they not having / prosecuted the petitioner for one or the other reasons, have decided to conduct a disciplinary proceeding against the petitioner and /also served the charge memo. on him. We have already extracted the article of charge levelled against the petitioner. As the authority has necessary power under Rule 10 to order continuance of suspension in the light of subsequent events, namely, disciplinary inquiry, it was contended that we should understand the continuance of the petitioner under suspension as justified on this ground. If the authority

had applied its mind and taken into consideration the changed circumstances and formed an opinion that continuance of the petitioner under suspension is called for pending disciplinary inquiry, we would have been justified in declining the relief to the petitioner. To satisfy ourselves as to whether the authority competent to make the order has applied its mind in this behalf and formed opinion that continuance of the petitioner under suspension is warranted pending disciplinary inquiry against the petitioner, we asked the respondents to produce the relevant records. Accordingly, the records have been produced during the course of the arguments. The respondent's counsel was not in a position to point out any order or proceedings from the file showing that the competent authority had formed its opinion that it is necessary to continue the petitioner under suspension pending disciplinary inquiry against the petitioner. As the entire basis for the order of suspension, namely, investigation for a criminal offence, has disappeared and as there is nothing to indicate application of mind in regard to continuance of the petitioner under suspension on another ground, namely, pending disciplinary inquiry, it has become necessary to mould the relief in a just and proper manner keeping in mind the right and interest of the petitioner on the one hand and public interest on the other. Bearing these concerns in mind, we consider it appropriate to dispose of this application.

4. For the reasons stated above, we dispose of this application with the following direction:

The Secretary, Union Public Service Commission, the respondent in this case, shall apply his mind and pass a fresh order on or before 4.12.1992 in regard to continuance or otherwise of the petitioner under suspension pending disciplinary inquiry. If no order is passed for continuing the suspension within the said period, the impugned order of suspension shall automatically stand vacated and the petitioner would be entitled to be reinstated in service with effect from 7th of December, 1992.

Let a copy of this order be despatched to the respondent **forthwith**.

*Delwyn*  
(I.K. RASGOTRA)

MEMBER(A)

*Malimath*

(V.S. MALIMATH)  
CHAIRMAN

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