

29

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**C.P. No.431 of 2006
in
O.A. No.2056 of 2004**

New Delhi, this the 5th day of February, 2007

**HON'BLE SHRI SHANKER RAJU, MEMBER (J)
HON'BLE MRS. NEENA RANJAN, MEMBER (A)**

Dhruv Bhagat (Driver)
No.10/49,
Najafgarh Fire Station,
Najafgarh, New Delhi.

.....Applicant.

(By Advocate : Shri S.K. Gupta)

Versus

1. Shri Ramesh Narayan Swamy,
Chief Secretary,
Govt. of NCT of Delhi,
Delhi Secretariat,
Players Building, I.P. Estate,
New Delhi-110002.
2. Shri O.P. Kelkar,
Principal Secretary (Home),
Govt. of NCT of Delhi,
Delhi Secretariat,
Players Building, I.P. Estate,
New Delhi-110002.
3. Shri R.C. Sharma,
Chief Fire Officer,
Delhi Fire Service Headquarters,
Connaught Circus,
New Delhi-110 001.

.....Respondent.

(By Advocate : Shri Ajesh Luthra)

ORDER (ORAL)

HON'BLE SHRI SHANKER RAJU, MEMBER (J) :

Heard the counsel.

2. The order passed on 20.7.2006 disposing of OA 2056/2001 by holding that major penalty imposed upon the applicant modified in appeal to minor penalty, in that event, treatment of suspension period only on leave but not as spent on duty was also not legally

tenable and further held that, appointment of enquiry officer was not in accordance with law and the impugned orders have been set aside and the applicant was made entitled to all consequential benefits, including the treatment of suspension period as spent on duty with pay and allowances. However, liberty was granted to the respondents to resume the proceedings from the stage of appointment of EO. In that event, law shall take its own course.

3. Accordingly, learned counsel for applicant states that when specific direction has been issued, keeping in abeyance the treatment of suspension vide respondents' order dated 31.1.2007, is defiance of the order passed by the Tribunal. Accordingly, he prays for treatment of suspension period as spent on duty.

4. On the other hand, Shri Ajesh Luthra, learned counsel for respondents states that once liberty has been given to the respondents to resume the proceedings from the stage of appointment of EO, it would be major penalty proceedings and in such an event, provisions of CCS (Conduct) Rules would come into operation and in the light of the decision of the Apex Court in Managing Director, ECIL, Hyderabad vs. B. Karunakar, JT 1993 6 SC 1, it is pointed out that period of suspension is to be treated in accordance with law after the culmination of the major penalty proceedings.

5. We have carefully considered the rival contentions of the parties. No doubt, minor penalty inflicted in major penalty proceedings would not entail treatment of suspension period as not spent on duty. However, once we have set aside the impugned orders. In such view of the matter, when liberty was accorded to the respondents to resume the major penalty proceedings, it would

have a natural effect of keeping the period of suspension in abeyance, which is the right course and also in accordance with the decision in ECIL (supra).

6. In view of the above, we are of the view that the order passed by the respondents dated 31.1.2007 is inconsonance with the orders passed by us. Accordingly, CP stands disposed of, leaving open the issue of treatment of suspension period. Notices are discharged.

NRanjan

(NEENA RANJAN)
MEMBER (A)

S. Raju

(SHANKER RAJU)
MEMBER (J)

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