

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.376 of 2004

New Delhi this the 1st day of March, 2004

Hon'ble Shri V.K.Majotra, Vice Chairman(A)
Hon'ble Shri Bharat Bhushan, Member(J)

Vijay Kumar Aggarwal, IAS,
S/o Shri Prem Chand Aggarwal,
R/o C-R-C-, Pandav Nagar,
Parpar Ganj Road,
Near Mother Dairy Milk Plant,
East Delhi-110092
Kolhapur (Maharashtra)

.... Applicant

(Applicant present in person).

versus

1. Union of India
Through the Secretary,
Minstry of Personnel, Public Grievances
& Pensions, Department of Personnel &
Training, Government of India,
North Block, New Delhi-110001.
2. State of Maharashtra
Through the Chief Secretary,
Government of Maharashtra,
Mantralaya, Madam Cama Road,
Mumabi-400032
Through the Principal Secretary &
Special Commissioner, Government of
Maharashtra, Maharashtra Sadan,
Copernicus Marg, New Delhi-110001. Respondents

(By Advocate: None.)

Order (Oral)

Hon'ble Shri Bharat Bhushan, Member(J).

Heard the applicant.

2. Impugned before us in this Original Application is the show cause notice dated 28.1.2004 (Annexure A-1) issued to applicant by the Govt. of Maharashtra. The applicant, Shri Vijay Kumar Aggarwal is a member of IAS (1982 batch Maharashtra Cadre officer) earlier while functioning as Assistant Collector and Competent Authority ULC Kolhapur he was placed under suspension vide Govt. order dated 26.5.1988.



S

Disciplinary proceedings for major penalty under Rule 8 of the AIS (Discipline & Appeal) Rules, 1969 were initiated against him vide memorandum of charges dated 6.7.1988. However, subsequently, the State Govt. revoked the said order of suspension and reinstated him in service vide order dated 13.5.1996. The applicant however, challenged the said order dated 13.5.1996 by filing an OA No.1714/2003 in the CAT, Principal Bench, New Delhi.

3. The Tribunal vide its judgment dated 18.11.2003 quashed and set aside the impugned order dated 13.5.96 and directed the Respondents to pass a fresh order in so far as the treatment of suspension period was concerned. Consequently, the notice was given to the applicant to show cause within a period of 60 days as to why he should be paid any full pay and allowances for the period of suspension except subsistence allowance payable as per rules. It is the said show cause notice dated 28.1.2004 (Annexure A-1) which is the subject matter of challenge in this OA.

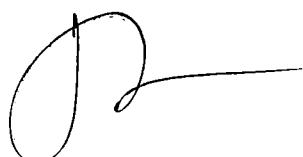
4. The applicant has contended before us that the respondents have all along acted in an illegal manner with an ulterior motive to get rid of him by hook or by crook. His submission is that the period of the said purported suspension from 26.5.1988 to 13.5.1996 is to be treated as duty period for all purposes, with consequential benefits. Hence, he has argued that he is



(3)

entitled to full pay and allowances for the period 1.5.1988 till date, with interest. He also claims compensation for damages. His further submission is that he has every apprehension that he is not likely to get justice at the hands of the respondents even if he submits any cogent or utmost satisfactory reply to the show cause notice. His contention is that there are catena of rulings of the Apex Court thereby laying down the law that where the suspension order has been held to be illegal, then the individual is entitled to all the pay and allowances and consequential benefits for the entire period. He states that his suspension order too had been illegal, hence he is entitled for all the pay and allowances for the entire period. Consequently he has very fervently pleaded that the Show Cause Notice (Annexure A-1) issued against him be quashed at the outset.

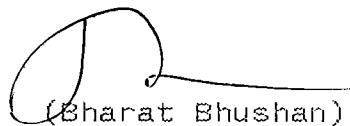
5. We have given our careful thought to the pleas raised by the applicant. Undoubtedly, the proposition of law as stated by him is asbsolutely clear. But the fact remains that without waiting for the decision of the authorities, he wants us to intervene and that too without his even furnishing reply to the show cause notice. This incidently is not permissible under the law. In our considered opinion, the present application filed at this stage simply on the basis of issuance of Show Cause notice and without responding to it is absolutely pre-mature. His apprehension that he is

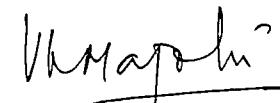


7

(4)

likely to get adverse order against him if he submits reply to the Show Cause appears to be totally misconceived and without any basis. This being so, to our mind, the present application being pre-mature is hereby dismissed. No order as to costs.


(Bharat Bhushan)
Member (J)


(V.K. Majotra)
Vice Chairman (A)

rb.