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

O.A.No. 3266 of 1992

Date of Decision: 25.5.93.

Bhagwan DassApplicant.

Versus

Director of Education, Directorate of Education, Delhi

.....Respondents.

CORAM:

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman.

Hon'ble Mr. S.R. Adige, Member(A)

For the applicants:

Mr. J. Kaur, proxy counsel
for Shri Jog Singh.

For the respondents:

Shri Virendra Mehta, Counsel.

JUDGMENT (ORAL)

(By Hon'ble Mr. Justice S.K. Dhaon, Vice Chairman)

On 16.11.90, the petitioner was suspended from service pending departmental enquiry. On 23.12.92, a charge-memo was given to him. He was given subsistence allowance in accordance with Fundamental Rule -53. It appears that he invoked the jurisdiction of the competent authority under Fundamental Rule 53(1)(iii)(c) and proviso thereto. On 14.9.92, an order was passed by the Director of Education that after reviewing the subsistence allowance payable to the petitioner, that allowance will continue to be paid to him at the existing rate till further orders.

2. The relevant provision empowers the authority concerned to increase the amount of subsistence allowance by a suitable sum, not exceeding 50% of the subsistence allowance admissible during the first three months, if in the opinion of the said authority, the period of suspension has been prolonged, for reasons not directly attributable to the Government servant. This provision not only empowers the authority concerned to raise the subsistence allowance but also

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casts a duty upon it to do so. The fact that the charge-memo was given to the petitioner two years after the passing of order of suspension, was enough to indicate that the period of suspension had been prolonged for reasons not attributable at all to the Government servant. The order dated 14.9.92 has been passed mechanically in disregard of the relevant provisions.

3. We direct the authority concerned to pay subsistence allowance to the petitioner in accordance with the provisions as contained in Fundamental Rule 53. It follows that the petitioner shall now be paid subsistence allowance at the rate of 75%. The payment shall be made w.e.f. 1.6.93.

4. In O.A., the order of suspension has been challenged. Now a charge sheet has been given to the petitioner. Therefore, the departmental proceedings have commenced. No ground, therefore, exists at this stage to interfere with the order of suspension.

5. With these directions, this application is disposed of finally but without any order as to costs.

S.R. Adige
(S.R. ADIGE)
MEMBER(A)

S.K. Dhaon
(S.K. DHAON)
VICE CHAIRMAN (J)

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