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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.1524/93

Date of decision: 27.07.1993.

Shri Nathi Ram Bhardwaj

...Petitioner

Versus

Union of India & Ors.

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

Shri S.R. Dwivedi, Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

Heard the learned counsel for the petitioner. The case of the petitioner is that he was placed under suspension vide memo No.B-36/NRB/73-74 dated 20.3.1974. The said suspension was revoked vide order dated 24.6.1974. The petitioner remained under suspension from 20.3.1974 to 24.8.1974. It appears that no order was passed by the respondents in accordance with FR 54-B in regard to the treatment of suspension period. The said rule is reproduced below:-

"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

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

The impugned order dated 7.1.93/3.3.93 has been issued by the respondents, disposing of the representation of the petitioner dated 10.12.1992. The relevant part of the said order reads as under:-

"The said official Shri Nathi Ram Bhardwaj Stg. Asstt. submitted a representation dated 10-12-92 requesting therein to regularise the period of his suspension. The request of the official has been considered and the period of his suspension from 20-3-74 to 24-8-74 is hereby ordered to be treated as leave due & . admissible to the official."


A perusal of FR-54-B would indicate that the order in regard to the period of suspension has to be passed within a reasonable time after the suspension is revoked. Further the decision to be made by the competent authority is whether or not the period of suspension should be treated as period spent on duty. In this case no decision seems to have taken in this behalf. The respondents cannot treat the period of suspension as leave due in accordance with F.R. 54-B. Further, it is obligatory on the part of the respondents to treat the suspension period of the petitioner as duty, as he was only awarded a minor penalty in the case for which he was suspended. This is substantiated by his appeal dated 22.3.93 addressed to the Director Postal Service (R), Maghdoot Bhawan, Link Road, New Delhi. The instructions in this regard are laid down in Government of India, Department of Personnel and Training OM No.11012/15/85-Estt(A) dated 3.12.1985. The relevant part thereof is reproduced below:-


"The Staff side of the Committee of the National Council set up to review the C.C.S (C.C.A.) Rules, 1965, had suggested that in cases where a Government

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servant against whom an inquiry had been held for the imposition of a major penalty, is finally awarded only a minor penalty, the suspension should be considered unjustified and full pay and allowances paid for suspension period. Government have accepted this suggestion of the Staff Side. Accordingly, where departmental proceedings against a suspended employee for the imposition of a major penalty finally end with the imposition of a minor penalty, the suspension can be said to be wholly unjustified in terms of F.R. 54-B and the employee concerned should, therefore, be paid full pay and allowances for the period of suspension by passing a suitable order under F.R. 54-B."

In these circumstances, we do not consider it necessary to issue notice to the respondents and proceed to dispose of the matter at the admission stage itself by issuing a direction to pass an order in accordance with FR 54-B read with Department of Personnel and Training's OM dated 3.12.1985, adverted to earlier in regard to the treatment of the period in which the petitioner was under suspension. The order impugned Memo No.B-36/NRB/92-93 dated 7.1.93/3.3.93 is hereby set aside and quashed, being violative of the statutory provisions. The respondents shall take necessary action in regard to the treatment of the suspension period in question with utmost expedition and preferably within a period of three from the date of communication of this order.


(B.S. HEGDE)
MEMBER(J)


(I.K. RASGOPI)
MEMBER(A)

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