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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

D.A. 221/93

DATE OF DECISION: 23.2.1993

Raj Kumar & Another.

... Petitioners.

Versus

U.O.I. & Ors.

... Respondents.

CORAM:

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

For the Petitioners.

.. Shri J.C. Madan,
Counsel.

For the Respondents.

.. Shri P.P. Khurana,
Counsel.

JUDGEMENT (ORAL)

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

In this case, the petitioners have challenged the orders of suspension made against them as also the orders transferring them to another place. We issued notice to the respondents to show cause as to why we should not admit the case and grant interim order as prayed for. In response to the said notice, the respondents have entered appearance through their counsel Shri P.P. Khurana. We have heard the learned counsel for both the parties regarding admission and interim relief. It was brought to our notice by both the counsel that the orders of suspension made against both the petitioners have since been withdrawn. Though the language of the orders for revocation of suspension orders is capable of different interpretations, we are inclined to interpret

(4)

the orders of revocation of suspension as having effect right from the date on which they were placed under suspension. Hence, the petitioners must be deemed to be in service and the orders of suspension must be ignored for the entire period. The counsel for the petitioners submitted that the petitioners have been paid salary for the entire period except two days, that is 3rd and 4th January, 1993. If that is so, in view of the clarifications made above, the balance amount of salary has also to be paid to the petitioners. Shri Khurana rightly and fairly submitted that that is the correct legal position and that he would instruct the department to pay the amount of salary of 3rd and 4th January, 1993 to the petitioners. Hence, in view of the subsequent event of revocation of orders of suspension, we do not consider it necessary to interfere with the orders of suspension.

2. So far as petitioner No.1 is concerned, it was submitted that he has reported for duty where he was transferred. Hence, nothing survives for examination as far as the case of petitioner No.1 is concerned except to dismiss the petition.

3. So far as petitioner No.2 is concerned, what survives for examination is the order of transfer. The respondents have pointed out that on a complaint made by Respondent No.4 before the police authority, a criminal
N case is under investigation. The order of transfer has been

(5)

made by Respondent No.3, who is the superior authority of Respondent No.4. The counsel for the respondents submitted that a charge sheet has also been issued for holding a disciplinary inquiry against the petitioners. We do not express any opinion on merits as it may have a bearing on the investigation of the criminal case as also on the disciplinary proceedings. Hence, we do not consider it expedient to interfere with the order of transfer. We, however, make it clear that after the termination of the disciplinary inquiry and the criminal proceedings, it is open to the petitioners to make a request for retransfer. If such a request is made, the appropriate authority may consider the same in an objective manner.

4. With these observations, this petition is dismissed.

No costs.

Dilip
(I.K.RASGOTRA)
MEMBER(A)

Malimath
(V.S.MALIMATH)
CHAIRMAN

SRD
250293.