

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALIAHABAD BENCH
ALIAHABAD.

Allahabad this the day 2nd September 1997.

CORAM : Hon'ble Dr. R.K. Saxena, J.M.
Hon'ble Mr. D.S. Baweja, A.M.

ORIGINAL APPLICATION NO. 1067 OF 1996.

Munna Lal, S/o Late Sri Ram Prasad,
aged about 47 years, R/o 89/33, Dalal purwa,
Kanpur Pin No. 208001.

.... Applicant.

(By Advocate Shri O.P. Gupta)

Versus

Regional Provind Fund Commissioner U.P.
Nidhi Bhawan, Sarvodaya Nagar,
Kanpur-208005.

.... Respondents

(By Advocate Shri J.N. Tiwari)

OR D E R (ORAL)

By Hon'ble Dr.R.K. Saxena, Member (J)

1. The applicant Munna Lal has approached the Tribunal through this O.A to seek the relief that the suspension order dated 9.8.1994 passed against the applicant, be set aside; and any other directions which may be deemed necessary, may be given to the respondents.

2. The facts as are emerged ~~at~~ from the O.A as well as from the counter-affidavit are that the applicant was working as Clerk and Head Clerk under the respondent no. 1 and during the period July 1989 to February 1991, the applicant committed embezzlement of more than Rupees two lacs. In anticipation of the

disciplinary proceedings, the applicant was placed under suspension on 9.8.1994 vide order Annexure-I. The main grievance of the applicant is that he remained under suspension for sufficiently long period but no chargesheet was submitted. Hence this O.A was preferred with the relief as mentioned hereinbefore.

3. The respondents have filed the counter-affidavit at the stage of admission and contended that the applicant was not only facing the disciplinary enquiry but was also facing a criminal trial ~~of~~ ^{of} embazement before the Special Judge Anti-Corruption, Lucknow, on the chargesheet being submitted by C.B.I. Shri O.P. Gupta also admits that after this O.A was filed, the applicant was served with the chargesheet of disciplinary proceedings.

4. Looking to these facts that there is grave charge of misappropriation against the applicant as well as others and he is also facing trial before the Special Judge Anti-Corruption under Prevention of Corruption Act, the question of setting aside the order ~~and~~ ^{of} suspension does not arise. So far as sufficient time being taken for initiating the disciplinary proceedings is concerned, it is clear that the matter was investigated by C.B.I and the investigation by C.B.I generally takes a long period. Thus, the delay in starting the disciplinary proceedings against the applicant can be no ground to set aside the order of suspension.

5. Shri O.P. Gupta further contends that the applicant was placed under suspension on 9.8.1994 and he is getting only 50% of salary as subsistence allowance. He has also submitted that no periodical review of subsistence allowance has taken place. We are certainly of the view that the respondents should have reviewed the periodically ^{the} on/point of allowance. On this point Shri J.N. Tiwari who is appearing for the respondents informs that periodical review had taken place but he was not aware as to why the allowance was not increased. Any way, we are of the view that 75% or maximum permissible limit under rules of the salary, be given as subsistence allowance to the applicant provided, he is ~~also~~ ^{found} cooperating in the disciplinary proceedings before the respondents ~~or~~ ^{or} enquiry officer.

6. Shri O.P. Gupta also argues that the respondents have not started disciplinary proceedings as yet. We would like to suggest to the respondents that an early action in starting and completing the disciplinary action be taken.

7. The original application ^{is} disposed of accordingly. No order as to costs.

MEMBER (A)

MEMBER (J)

am/