

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH :ALLAHABAD

ORIGINAL APPLICATION NO.380 OF 2001

ALLAHABAD THIS THE 20th DAY OF November, 2006

HON'BLE DR. K.B.S. RAJAN, J.M.
HON'BLE MR. A. K. SINGH, A.M.

Navin Prakash Gupta,
Son of Sri Bal Ram Gupta Scientist "B"
D.M.S.R.D.E. G.T. Road,
Kanpur Nagar, U.P.

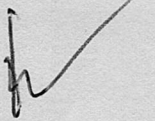
.Applicant

By Advocate: Shri M.S. Pipersenia

Versus

1. Union of India
through the Secretary,
Ministry of Defence,
New Delhi.
2. Director General,
Defence R & D Organisation & Scientific Advisor
Raksha Mantri, D.R.D.O.,
Ministry of Defence, New Delhi.
3. Director Personnel,
Ministry of Defence research & Development
Organisation, Directorate of Personnel (para-8)
New Delhi.
4. Director, D.M.S.R.D.E., G.T. Road,
Kanpur Nagar, (CAT) U.P.

.Respondents

 By Advocate : Shri R. C. Shukla

O R D E RHON'BLE DR. K.B.S. RAJAN, J.M.

The applicant was under deemed suspension (vide order dated 30-08-1996) from 16-08-1996 as it was on that day he was arrested for having committing the alleged offence u/s 506 and 509 IPC. He was however, released on 23-08-1996. The period of suspension was extended in continuation of order dated 30-08-1996 (initial suspension order) by order dated 20-04-1997. The applicant approached the High Court in CWP No. 5871 of 1998 which was allowed by quashing the order dated 30-08-1996 and 20-04-1997 vide judgment dated 18-02-1998. It was held that the period of suspension couldn't extend beyond the period of detention. Against the judgment the respondents had filed Review Application on 4-9-1998 and the same is pending.

2. Suspension of the applicant was revoked vide order dated 14-09-2000 and the applicant resumed duties on 25-09-2000. The criminal case is stated to be still pending.

3. The applicant through this OA prayed for payment of salary from 24-08-1996 to 25-09-2000 as according to him on the basis of the order of the High Court dated 18.02.1998, there cannot be a suspension beyond 23.08.1996.

W 4. The facts of the case not being in debate, the same obviate debate. Respondents have filed the

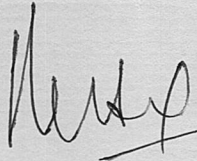
counter and according to them the applicant is not entitled to any such salary as he claims.

5. Arguments were heard and documents perused. While the fact of review being pending and criminal case not being so far finalized cannot be ignored, the fact remains that the High Court had set aside the orders dated 30-08-1996 and 20-04-1997 and thus, there is absolutely no suspension during this period. In the light of the Judgment of the High Court, revocation of suspension vide order dated 14-09-2000 was one of formal in nature as the applicant was entitled to be back in service once the order of suspension and its continuation have been quashed and set aside. Had the Writ petition not been decided in favour of the applicant by quashing the very order of suspension, the requirement would have, for the purpose of resumption of duties by the applicant, been a specific order under the provisions of Rule 10(5) (a) read with Rule 10(5) (c) of the CCS (CC&A) Rules, 1965. Such is not the case here. Review filed in 1998 has not been followed up by the respondents for reasons known to them. As such, the respondents are under a legal obligation to pass suitable orders in regards to the payment of salary from 24-08-1996 (date of expiry of suspension) to 24 -09-2000 (eve of resuming duty). The said order may contain that the payment is subject to outcome of the review petition. If need be, respondents may obtain necessary undertaking from the applicant for refund in one lump

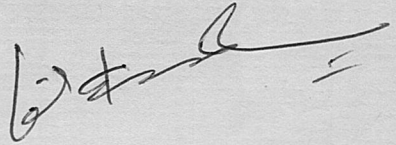
sum of the amount of pay and allowances, should the review be allowed.

6. In view of the above, the OA is allowed. Respondents are directed to pass suitable orders relating to payment of pay and allowances to the applicant for the period from 24-08-1996 to 24-09-2000 and make the payment to the applicant within a period of three months from the date of communication of this order. While so paying the amount, the extent of subsistence allowance received by the applicant should be adjusted.

No cost.



Member-A



Member-J

/ns/