

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 07th day of October 2004.

Original Application no. 861 of 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman
Hon'ble Mr. D.R. Tiwari, Member A

Lal Chandra Tiwari, S/o late Beni Tiwari,
R/o Vill & Post- Belwan, P.S. Phoolpur,
Distt. Varanasi, presently residing at Laxmanpuram Colony,
Bajardeeha, Varanasi.

... Applicant

By Adv : Sri U.S. Tiwari

V E R S U S

1. Union of India through Department of Posts,
India through Secretary, Ministry of Posts and
Telegraph, Sanchar Bhawan,
New Delhi.
2. Chief Post Master General, U.P. Circle,
Lucknow.
3. Supdt. of Post Offices, West Division,
Varanasi.

... Respondents

By Adv : Sri S. Singh

O R D E R

By Justice S.R. Singh, VC.

We have heard Sri U.S. Tiwari, learned counsel
for the applicant and Sri S. Singh learned counsel for the
respondents and perused the pleadings. Though this case
has been listed under the heading 'FOR ADMISSION' we
proceed to dispose it of at the admission stage itself,
after hearing the learned counsel for the parties.

(Signature)

2. The applicant, a Postal Assistant, was convicted and sentenced to undergo life imprisonment by means of judgment and order dated 04.09.2002 in Session Trial No. 44 of 1996 decided by the Additional Session Judge No.12 Varanasi. Consequent upon the judgment and order of conviction and Sentence the applicant was taken into custody on 04.09.2002 and remained under custody for a period exceeding 48 hours and accordingly vide order dated 09.09.2002 it was provided that he would be deemed to have been suspended w.e.f. the date of detainment i.e. 04.09.02 in terms of Sub Rule (2) of Rule 10 of Central Civil Services (CCS) Rules 1965. The suspension, it was provided vide order dated 09.09.2002, would remain in-operation "untill further orders". The applicant preferred appeal against the judgment and order of conviction and sentence before the Hon'ble Allahabad High Court. The Hon'ble High Court vide its order dated 09.09.2002 directed that the applicant would be released on bail on his furnishing personal bond of Rs.25,000/- with two sureties each in the like amount to the satisfaction of the Court concerned. The realisation of fine and execution of sentence, it was further provided, "shall also remain stayed till the pendency of this appeal." The applicant was released on bail on 11.09.2002 on the basis of the order passed by the Hon'ble High Court and on 19.09.2002 he moved an application for revocation of the suspension order. The competent authority by its order dated 01.11.2002 (Ann 4) passed in exercise of power conferred on clause (c) of Sub rule (5) of Rule 10 of CCS (CCA) Rules, 1965 revoked the suspension with immediate effect. Subsequently

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after a gap of about $1\frac{1}{2}$ years the applicant has again been placed under suspension by means of impugned order dated 31.05.2004.

3. The argument advanced by the applicant's counsel is that once a deemed suspension came to be revoked under Rule 5(c) of Rule 10 of CCS (CCA) Rules, 1965, a Govt. Servant cannot be placed under suspension again on the same cause of action in exercise of power conferred in sub-Rule 1(b) of Rule 10 of CCS (CCA) Rules 1965.

4. The learned counsel for the respondents has submitted that Clause (b) of Sub-rule (1) of Rule 10 of CCS (CCA) Rules, 1965 empowers the Appointing Authority, Disciplinary Authority or any other authority on behalf of President to place a Govt. Servant under suspension where a case against him in respect of any criminal offence is under investigation, inquiry or trial. The Trial in the instant case has already been culminated in an order of conviction and sentence as stated here in above and even if the appeal be taken as continuance of trial, recourse to the provision to clause (b) of Sub Rule(1) of Rule 10 of CCS (CCA) Rules 1965 would not be justified since the deemed suspension passed earlier had been revoked under clause (c) of Sub-rule (5) of Rule 10 after the institution of appeal against the judgment and order of conviction passed by the Session Court. The applicant was convicted and sentenced in a case under Section 302/34 and 232/34 of the IPC in Session Trial No.

44/1996 passed by the Additional Session

QWY

4.

Judge, Varanasi. The offence for which the applicant was convicted and sentenced was not one involving moral turpitude. In any case, for the reasons aforesated the impugned order cannot be sustained.

** corrected
as per order of
date on Misc.
Corr. Appl. No. 4970/04*

5. Accordingly, the OA succeeds and allowed.
** 31.05.2004 x 8*
The impugned order dated 29.05.2004 is set aside with liberty reserved to the Competent Authority to pass said order by giving valid reasons revoking the earlier order revocation of deemed suspension.

6. There shall be no order as to costs.

D. J. Rao

Member A

R. S. J.

Vice-Chairman

/pc/