

Central Administrative Tribunal Jammu Bench, Jammu



T.A. No. 1117/2020
M.A. No.1288/2020
(SWP No.3176/2019)

Reserved on 11.01.2021

Pronounced on 03.02.2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Mohd. Rashid aged 55 years
s/o Sakhi Walait
r/o Village Bhata Durain,
Tehsil Mendhar District Poonch

...Applicant

(Advocate: Mr. A A Khan)

Versus

1. State of J&K through Commissioner Secretary
Finance Department
Civil Secretariat, Jammu/Srinaga
2. The Director General
Funds Organization, Old Secretariat
Srinagar/Jammu
3. The Joint Director
Funds Organization, Muthi
Near Finance Corporation Office, Muthi
4. The Chief Account Officer
District Fund Office, Rajouri

..Respondents

(Mr. Amit Gupta, Additional Advocate General)

ORDER**Mr. Justice L. Narasimha Reddy:**

The applicant was initially appointed as Assistant Compiler in the establishment of the Directorate General, Funds Organization, Jammu, the second respondent herein, in 1990. He was promoted to the post of Compiler in 2009 and as Senior Compiler, in 2017. A criminal case was registered against him by the Vigilance Department of the State of Jammu & Kashmir, alleging that he received illegal gratification from a retired employee, by name Hari Singh. He was arrested in that connection and as a sequel thereto, the appointing authority passed an order dated 07.12.2017, placing the applicant under suspension. The applicant filed SWP No.3176/2019 before the Hon'ble High Court of Jammu & Kashmir, challenging the order of suspension dated 07.12.2017.

2. The applicant contends that there was absolutely no basis for implicating him in the criminal case. It is also stated that the inquiry by the Department against him was concluded with the submission of the inquiry report and despite that, he is not being reinstated.

3. In view of re-organization of the State of Jammu, the SWP has since been transferred to this Tribunal and renumbered as T.A. No.1117/2020.

4. The respondents did not file any counter affidavit.

5. We heard Mr. A A Khan, learned counsel for applicant and Mr. Amit Gupta, learned Additional Advocate General, through video conferencing.



6. The suspension of the applicant was on account of his being arrested, in connection with a criminal case. The pleadings in the SWP are somewhat vague. On the one hand, the applicant states that he was not issued any charge memo and on the other, he contends that the inquiry officer has submitted a report. It is not known as to whether any regular disciplinary proceedings were initiated against him. The stage of the criminal case is another issue.

7. The applicant did not state whether the initial suspension was extended. In his representation dated 28.11.2018, the applicant made request for review of his suspension.

8. One aspect, which becomes clear, is that nearly three and a half years have elapsed ever since the applicant was placed under suspension. It may be true that the suspension was as a result of the arrest of the applicant in relation to a vigilance related case. Even then, the concerned authority is required to review the suspension and decide whether it is in the interest of the Department, to continue the applicant under suspension by

paying huge amount towards the subsistence allowance. A balance needs to be struck in this behalf. Much would depend upon the stage of the criminal case on the one hand and the disciplinary proceedings on the other, if instituted.



9. Therefore, the T.A. is disposed of directing the second respondent to review the matter pertaining to the suspension of the applicant and to pass a reasoned order within two months from the date of receipt of a copy of this order.

10. Pending M.A. shall stand disposed of. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/sunil/