

**Central Administrative Tribunal
Jammu Bench, Jammu**



O.A. No.461/2021
M.A. No.492/2021

Tuesday, this the 27th day of April, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Abdul Latief Shah, Age 53 years
S/o Syed Hussain Shah
R/o Ward No.17, Doda District, Doda
Pin Code : 182202.
2. Sukesh Kumar Sharma, Age 57 years
S/o Late Dharam Prakash
R/o Village Gatha Tehsil Bhaderwah
District Doda, Pin Code 182221.
3. Zakir Ali, Age 46 years
S/o Ghulam Mohd.
R/o Ward No. 16, Doda District, Doda
Pin Code 182202.

...Applicants

(Mr. M.A. Bhat, Advocate)

VERSUS

1. Secretary to Government
Housing and Urban Development Department.
2. Director
Urban Local Bodies, Jammu.
3. Additional District Development Commissioner Doda
[Administrator Municipal Committee Doda/Thathri]

...Respondents

(Mr. Amit Gupta, Additional Advocate General)



ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicants are working in the Doda Municipal Committee, in various capacities. Earlier they were suspended through an order dated 07.11.2013 on the ground that an FIR was registered against them and they were also arrested on the allegation that they have drawn certain amount, in the names of fictitious contractual employees. They were reinstated through an order dated 19.06.2014. About seven years thereafter, the Director, Urban Local Bodies initiated disciplinary proceedings against the applicants by issuing charge memorandum dated 01.03.2021. Four days thereafter, the Director placed the applicants under suspension, through order dated 04.03.2021. This O.A. is filed challenging the individual orders dated 04.03.2021, through which the applicants are placed under suspension.

2. The applicants contend that they were suspended earlier in the year 2013 on filing of FIR and were reinstated on 19.06.2014. They contend that it is totally impermissible under law to suspend them once again on the same allegation.



3. The respondents filed a detailed counter affidavit. They stated that the earlier suspension was on account of registration of FIR No. 153/2012 and arrest of the applicants; and the present suspension is on issuance of the charge memorandum dated 01.03.2021. An objection is also raised as regards the jurisdiction of the Tribunal.

4. Today, we heard Mr. M A Bhat, learned counsel for applicants and Mr. Amit Gupta, learned Additional Advocate General.

5. At the outset, we examine the issue pertaining to jurisdiction. It is true that the applicants are the employees of Doda Municipal Committee and that the said organisation is not within the purview of the Tribunal. However, the impugned order is passed by the Director, Urban Local Bodies. It is only when the employee is under the purview of the Director, that the said officer can initiate disciplinary proceedings. By that very reason, the Tribunal gets the jurisdiction to decide the matter.

6. It has already been mentioned that the applicants were placed under suspension on 07.11.2013 on the allegation that an FIR was filed against them and they were also



arrested. Within few months, they were reinstated on 19.06.2014. In case any fresh cause has arisen or a different act of misconduct was attributed to the applicants, there would have been every justification for the respondents to place them under suspension. The only basis to pass the impugned orders of suspension dated 04.03.2021 is that charge memorandum was issued on 01.03.2021 on the same allegation as contained in FIR. That hardly constitutes any basis for suspending the applicants once again. Further, this is not a case where there is any possibility of the applicants, to temper with the records or taking steps to hamper the inquiry. The allegation against them is that they are responsible for payment of sums of Rs.1,30,790/- and Rs.9309/- to certain persons by treating them as contractual workers. The order itself indicates that an investigation was already conducted. There is no reason to place the applicant under suspension, in this scenario.

7. The matter needs to be examined from angle also. The placing of the applicants under suspension would result denial of their service on the one hand and payment of substantial amount, towards subsistence allowance on the other. That option can be chosen, only if it is inevitable. Secondly, there is



acute shortage of staff, and even those, who are in duty, are not attending due to ongoing Covid pandemic. We are of the view that the fresh suspension of the applicants, under these circumstances is totally unwarranted.

8. Though challenge is made to the charge memorandum dated 01.03.2021, we are not inclined to interfere with the same.

9. We, therefore, allow the O.A. and set aside the suspension orders dated 04.03.2021. The Disciplinary Authority shall also consider the feasibility of recovering the amount from the applicants and giving a quietus to the entire issue, instead of burdening the applicants and their employer, with avoidable litigation.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

April 27, 2021
/sunil/jyoti/sd/