



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.722/2021

This the 1st day of April, 2021

(Through video conferencing)

Hon'ble Mr. Pradeep Kumar, Member (A)

Vikash Dahiya, Age 38 years
(PGT (Maths), Emp ID (20130220)
S/o Shri Rajender Singh
R/o Flat No. 507, Ground Floor,
Pocket-7, West Side Central Park,
Narela, Sector-A-6, Delhi-110040
Group 'C'. ... Applicant

(Through Advocate Shri Sachin Chauhan)

Versus

1. Govt. of NCT of Delhi
Through the Chief Secretary,
A- Wing, 5th Floor,
Delhi Secretariat,
New Delhi-1100113.
2. The Director (Education),
Director of Education,
Govt. of NCT of Delhi,
Old Secretariat,
New Delhi-1100113
3. The Director (Higher Education)
Directorate of Education,
Govt. of NCT of Delhi,
Old Secretariat,
New Delhi-1100113.
4. The Asstt.Director of Education (Vigilance),
Directorate of Education,
Govt. of NCT of Delhi,
Old Secretariat,



New Delhi-1100113.

5. The DDE (North-West-A),
Directorate of Education,
Govt. of NCT of Delhi,
Old Secretariat,
New Delhi-1100113.

.... Respondents

(Through Advocate Ms.Avni for Ms.Esha Mazumdar)

ORDER(ORAL)

The applicant herein was appointed as lecturer Maths on 14/18.3.2013, in the pay scale of Rs 9300-34800+GP 4800plus usual allowances under Department of Education GNCTD.

2.0. One FIR 193/217 dated 29.10.2017, in relation to leaking the question paper for a recruitment exam of teachers and providing undue benefits to some candidates, came to be lodged at a Police Station under Section 420/120B/34 IPC. It is pleaded that applicant's name does not appear in this FIR. However, some of the accused, during investigation, had taken the name of the applicant as one of the accomplice. Thereafter, he was arrested on 10.3.2018 and he was granted bail by the competent court on 27.4.2018.

Following this, the applicant was put under suspension w.e.f. 08.3.2018. Suspension period has since been extended from time to time. The last such extension for a further period of



180 days, was ordered on 3.11.2020, which was to take effect from 21.11.2020. He is getting subsistence allowance at the rate of 50%, as was ordered in the first suspension. The latest extension order does not make any mention about subsistence allowance.

3.0. Applicant has made a representation on 17.8.2020, that since his suspension is being continued and there has not been issued even a departmental charge sheet against him, his subsistence allowance is required to be enhanced from 50% to 75% w.e.f. 6.6.2018 and arrears also need to be released. The applicant brings out that after initial two extensions subsequent suspension extension orders do not even mention anything about the subsistence allowance.

4.0. The applicant relies upon Rule FR 53(1) wherein relevant para is reproduced below:

“FR 53(1). A Government servant under suspension 2[or deemed to have been placed under suspension by an order of the appointing authority] shall be entitled to the following payments, namely:-

- (i) in the case of a Commissioned Officer of the Indian Medical Department or a Warrant Officer in Civil employ who is liable to revert to military duty, the pay and allowance to which he would have been entitled had he been suspended while in military employment;
- (ii) in the case of any other Government servant:-



(a) a subsistence allowance at an amount equal to the leave salary which the Government servant would have drawn if he had been on leave on half average pay or on half pay and in addition, dearness allowance, if admissible on such leave salary."

Reliance is also placed on judgment Dt. 4.9.2018 in OA 1583/2018, Hari Om Meena Vs Vice Principal. The petitioner in this OA was suspended. OA was filed seeking relief for revocation of suspension. When the matter was taken up for hearing, the petitioner was already reinstated. OA was disposed off with directions to respondents to pass an order regarding subsistence allowance for period of suspension and other benefits as per Rules.

5.0. Since there has been no response to the said representation, the present OA has been preferred. Relief has been sought to quash the extension letters for the said suspension to the extent that subsistence allowance has not been enhanced and no reasons have been put forward also.

6.0. Ms. Avni appeared for learned counsel, Ms. Esha Mazumdar on advance information on behalf of the respondents. Respondents sought time to submit their reply to the same.

7.0. The matter has been considered. Applicant was represented by learned counsel, Shri Sachin Chauhan and Ms.



Avni appears for learned counsel, Ms. Esha Mazumdar who represented the respondents.

8.0. It has been pleaded as an admitted position that the name of the applicant does not appear as an accused in the FIR. He has only been investigated as his name was taken by one of the accused, as an accomplice. The applicant was arrested but he was granted bail on 27.4.2018. Suspension was ordered which has been extended from time to time. However, it is also pleaded that no departmental charge sheet has been issued against the applicant so far.

9.0. In view of the forgoing, Tribunal is of the view that no useful purpose would be served to keep the OA pending.

10. Accordingly, OA is disposed off at the admission stage itself, without going into merits of the case, with a direction to the respondents, to pass a reasoned and speaking order, on the pending representation dated 17.8.2020, keeping in view the extent Rules and instructions on the subject including the provisions of Rule 53(1) (supra), within a time period of 8 weeks, under advice to the applicant. If, as a result of this examination, certain payments become due to the applicant, the same shall also be released within a time period of 4 weeks thereafter. The



applicant shall have liberty to approach the Tribunal, if certain grievance still subsists. No. costs.

rita/sarita/aarti

(Pradeep Kumar)
Member (A)