



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No. 313/2021

Friday, this the 18th day of June, 2021

(Through Video Conferencing)

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

Sushil Kumar Sharma
S/o late Sh. Babu Ram Sharma
R/o 205, Sukhdev Vihar
Ground Floor (Rear Side)
New Delhi-110025

... Applicant
(By Advocate: Mr. Ajay Kumar Sharma)

Versus

1. Ministry of Housing & Urban Affairs
Through its Secretary
Nirman Bhawan, C-Wing, Rajpath area
Central Secretariat, New Delhi-110011
2. Vice Chairman
Delhi Development Authority
Vikas Sadan, INA
New Delhi-110023

... Respondents

(By Advocates: Mr. Gyanendra Singh for Respondent No. 1 and
Ms. Sriparna Chatterjee for Respondent No. 2)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant was working as Deputy Chief Accounts Officer in the Delhi Development Authority (DDA). He was about to retire on 30.06.2020. Four days before that, he was



placed under suspension vide order dated 26.06.2020. Thereafter, the applicant was issued a memorandum dated 10.08.2020 requiring him to explain the lapses pointed out therein. In view of the order of suspension and other steps, the respondents released only the provisional pension to the applicant and withheld other retiral benefits, such as gratuity, leave encashment and commutation of pension. This O.A. is filed with a prayer to direct the respondents to release the gratuity, leave encashment and commutation of pension.

2. The applicant contends that there was absolutely no basis for the respondents to place him under suspension just four days before his retirement. He contends that similar allegations were made against several other employees and while all others are being continued in service and are being paid full salary, he is being subjected to discrimination.

3. The respondents filed a detailed counter affidavit. It is stated that several irregularities were noticed on the part of the applicant and other employees and it has been decided by the administration to initiate the disciplinary proceedings. It is stated that in the case of the applicant, the memorandum of charge has already been finalized and is awaiting the signature of the Hon'ble Lieutenant Governor.



4. Today, we heard Mr. Ajay Kumar Sharma, learned counsel for applicant, Mr. Gyanendra Singh, learned counsel for respondent No. 1 and Ms. Sriparna Chatterjee, learned counsel for respondent No. 2.

5. The applicant was placed under suspension four days before his retirement. The effort of the respondents seems to be to ensure that the disciplinary proceedings are continued against the applicant even after his retirement. Rule 9 of the CCS (Pension) Rules, 1972 provides for a presumption as to the continuance of the proceedings in case an employee is placed under suspension.

6. The applicant did not challenge the order of suspension, obviously because it has no effect once he retired from service. Unless the order of suspension is set aside, there is no way the applicant can get the benefits referred to above. At the same time, the respondents cannot continue the uncertainty for a long time.

7. We, therefore, dispose of the O.A. directing that in case the respondents do not serve the charge memorandum on the applicant within a period of four weeks from the date of receipt of a copy of this order, they shall be under obligation to release

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the gratuity, leave encashment and commutation of pension and that shall be without prejudice to this right to take further steps in accordance with law.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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