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Reserved:



CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Registration O.A. No. 209 of 1987

Vishnu Dutt Sharma Applicant

Versus

Union of India and Ors. Respondents

Hon. Mr. Justice U.C. Srivastava, V.C

Hon. Mr. A.B. Gorthi, Member(A)

(By Hon. Mr. A.B. Gorthi, Member(A))

In this application Under Section 19 of the Administrative Tribunals Act, 1985 the applicant, Shri V.D. Sharma prayed for several reliefs, all related to the Disciplinary proceedings initiated against him vide memo of charges dated 29.9.1983 and 29.11.1983 while he was in service in the Ordnance Equipment Factory Kanpur, and the continuation of the said proceedings even after his retirement on 30.6.1985.

2. The applicant was accused of falsifying official documents and attempting to show that a truck load of Basic Chrome powder ^{was received in the factory.} The allegation was that he improperly kept a large quantity of the basic chrome powder as surplus under his charge and with a view to offset the same he indulged in the fraudulent transaction with the connivance of certain others. And ^{-ther} allegation

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against him was that he accumulated assets beyond the known source of his income. The applicant was suspended from the duty w.e.f. 1.7.1983. The applicant made a number of complaints against the Enquiry Officer and against the manner in which the enquiry was being conducted. After the retirement of the applicant, the enquiry proceedings continued although the applicant challenged the legality of the same and refused to take part therein. The disciplinary enquiry finally culminated with the order imposing 50% deduction from the pension of the applicant for a period of 3 years.

3. During the pendency of the case the applicant expired and his legal heirs were allowed to be substituted as legal representatives.

4. We have heard Sri N.K. Nair, learned counsel for the applicant and examined the record. We do not find any such illegality or irregularity in the order imposing a cut in the pension of the applicant. The relief sought in this regard cannot therefore be allowed.

5. Learned counsel for the applicant has however laid stress on the fact that the suspension^{period} of the applicant ought to be treated as duty in view of the fact that the applicant was neither convicted nor acquitted of the charges while he was in service. The proceedings

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which continued after the applicant's retirement should have no relevance to the issue and therefore the suspension of the applicant should be deemed to have been revoked retrospectively when he was allowed to proceed on retirement. Besides placing reliance on Fundamental Rule-54 and Civil Service Rules Article-193 and C.C.S(Pension) Rule 9, our attention has been drawn to a decision of the Tribunal (Hyderabad Bench) in the case of K. Padmanabha Rao Vs. Accountant General A.P.I (1987) 4-A.T.C.756. The relevant portion of the judgment as recorded in the operative portion of it is reproduced below:

"The applicant having been allowed to retire without any conditions the earlier order having lapsed and the applicant is entitled to full pay and allowances for the period of suspension, treating the said period as on duty".

6. In the aforesaid case the Hyderabad Bench relied on the decision of Karnataka High Court in R.S. Naik Vs. State of Karnataka and Others, 1982(1) SLR-815 where it was held;

" With the severance of status, a petitioner's rejoining duty even after the termination of the criminal proceedings, does not and cannot arise. In this view, the result of the criminal prosecution already launched or to be launched against the petitioner does not alter his status at all. A fortiori the Court or Government, revoking the earlier

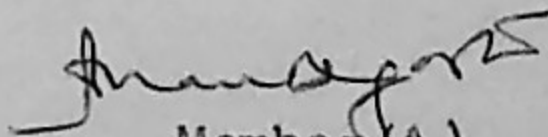
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of suspension or regulating his period of suspension will not also arise whatever be the result of the criminal prosecution, if any, launched or to be launched against the petitioner. Even otherwise, on Government permitting the petitioner to retire from service, the earlier order of suspension has necessarily to be treated as having lapsed and is no longer available for being regulated by the disciplinary or the appellate authorities. In these circumstances the period of suspension has only to be treated as on duty and cannot be treated as under suspension".

7. In view of the position as explained above, there is merit in the contention of the learned counsel for the applicant that the period of suspension commencing from 1.7.1983 till 30.6.1985 when the applicant retired should be treated as on duty. The respondents are accordingly directed to treat the applicant as on duty from 1.7.1983 to 30.6.1985. The consequential monetary benefits are also allowed. The respondents are directed to comply with this order within 3 months from the date of communication of this judgment.

8. The application is partly allowed in the above terms without any order as to costs.


Member (A)


V.C.

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Dated: 20th February, 1992

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