

Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.145 of 1988

S.M.A.R. Zaidi Applicant

Versus

Union of India & Another Opposite Parties.

Hon. Justice K.Nath, V.C.

Hon. K.J. Raman, A.M.

(By Hon. Justice K.Nath, V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is for quashing the suspension order dated 10.7.84, Annexure-1 passed against the applicant.

2. Annexure-1 is the order dated 10.7.84 by which the applicant was placed under suspension with effect from 30.6.84 on the ground that a criminal case was under "investigation/inquiry/trial". It appears that the applicant was prosecuted by SPE, (C.B.I.) Under Section 161, I.P.C. and 5(2) read with 5(1)(d) of the Prevention of Corruption Act. The Special Judge, Anti Corruption passed an order dated 30.6.87, Annexure-2 holding that the sanction for prosecution could not be proved to be valid one. He held that for want of valid sanction cognizance could not be taken and therefore he directed the proceedings against the applicant to be dropped with liberty to file afresh chargesheet after obtaining a valid sanction. According to the applicant, nothing had been done beyond that stage by the opposite parties.

3. Notices in this case were issued under order dated 12.2.88 and the case was adjourned on several occasions.

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dates but neither appearance had been made on behalf of the opposite parties nor a reply was filed.

4. Shri Prashant Mathur has appeared just now and requests for time to file a counter. However he admits that he has not yet received any instruction from the opposite parties.

5. In the circumstances we are not convinced that the learned counsel for the opposite parties may be given any further time.

6. As a matter of law the impugned suspension order having been passed on account of the pendency of a criminal case and the criminal case having been dropped by the competent Court, there is no basis for the suspension order to be continued. In the circumstances we allow this petition and quash the suspension order, Annexure-I dated 10.7.84. The applicant shall be reinstated and shall be paid back wages with effect from the date of suspension within a period of two months from the date of receipt of the copy of this order.

(Signature)

Member (A)

(Signature)

Vice Chairman

Dated the 17th Jan., 1990.

RKM

Central Administrative Tribunal, Allahabad.

Misc. Application No. 461 of 1990

Union of India and others ... Applicants

Vs.

S.M.A.R.Zaidi ... Respondents.

Hon.D.K.Agrawal, JM

Hon.K.Obayya, AM

By Hon.D.K.Agrawal, JM

Registration O.A.No. 145 of 1988 was decided by a Bench of this Court on 17th January 1990. By means of this Application, the Applicants have prayed that the order dated 17.1.1990 be recalled and after obtaining Counter on record, the case be decided afresh on merits.

2. The facts are that the Applicant employed as Sr. Clerk in the Northern Railway Lucknow was placed under suspension by an order dated 10.7.1984 w.e.f. 30.6.1984 on the ground that a criminal case was under "investigation/inquiry/trial". It appears that the Applicant was prosecuted by SPE (CBI) u/s. 161 IPC read with S.52 and 51 D of Prevention of Corruption Act. The Special Judge, Anti Corruption passed an order dated 30.6.87 holding that the sanction of prosecution could not be proved to be a valid one. Therefore, the Special Judge directed the proceedings against the Respondent to be dropped with liberty to file a fresh charge sheet after obtaining a valid sanction. The Respondent alleged that the administration had done nothing from that stage. Therefore, he prayed that the suspension order be quashed. Learned Judges of this Tribunal quashed the suspension order on the ground that the criminal case had already been dropped.

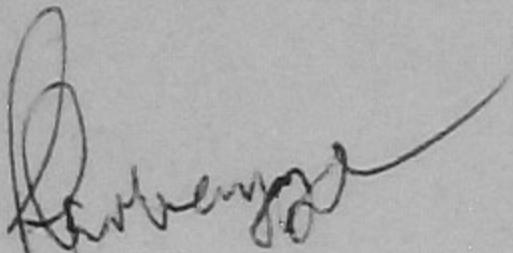
Dr. C. G. Venkatesh

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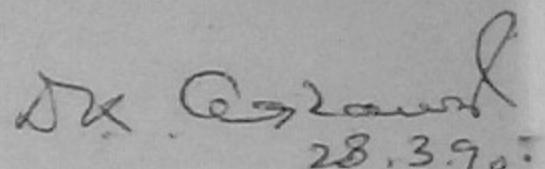
3. We have heard learned counsel for the Applicants, namely, Sri Prasant Mathur. We desired to know if sanction for prosecution has been accorded. He was unable to produce any document before us showing that the sanction has been accorded for the prosecution of the Applicant. In the circumstances, we are of opinion that no case is made out for setting aside the ex-parte order whereby suspension order was quashed with an observation that if sanction has already been accorded or is to be accorded hereinafter, there would be no fetter on the discretion of the competent authority to pass a fresh suspension order.

4. The Application is disposed of accordingly without any order as to costs.


MEMBER (A)

Dated: 28.3.1990

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28.3.90
MEMBER (J)