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Central Administrative Tribunal, Allahabad

Registration O.A.No. 1045 of 1988

Mohd. Yusuf Applicant

Vs.

Union of India and Respondents.
others

Hon. D.S.Misra, AM
Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

In this petition u/s.19 of the Administrative Tribunals Act XIII of 1985, the applicant has prayed that the further enquiry on the basis of the charge sheet served on the applicant be cancelled in view of the revocation of the suspension order of the applicant made in connection with the said inquiry.

2. It is alleged that the applicant while posted as Postal Assistant, Fatehpur was placed under suspension on 19.10.1985 by the Superintendent of Post Offices, Fathehpur- respondent no.2 in respect of a criminal offence under investigation against him and he was thereafter served with a charge sheet containing five articles of charges of misconduct against him. The applicant submitted his statement of defence and during the pendency of the disciplinary proceedings, his suspension was revoked by the respondent no.2 on 14.9.1987. It is alleged by the applicant that after his reinstatement, he was orally informed by the office of the respondent no.2 that he was reinstated as all the charges against him were found to be baseless and there will be no further inquiry against him. This, however, did not come true and the applicant knew that the enquiry against him was still going on and some interested persons were trying to get the applicant dismissed from service without giving him any opportunity of hearing. He filed this petition on the ground that in view of his unconditional reinstatement no further enquiry against him can continue and the proceedings on the basis of the charge sheet served on him be cancelled and quashed.

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3. We have very carefully considered the contentions raised on behalf of the applicant and have also perused the necessary record. Clause (a) of rule 10(5) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 provides that an order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so. This rule does not provide that suspension once made or deemed to have been made cannot be modified or revoked during the pendency of the disciplinary proceedings. We have also not been shown any other provision of law under which a suspension made under rule 10 can be ~~made~~^{revoked} only after the conclusion of the disciplinary inquiry. There is nothing on record to show that the disciplinary inquiry against the applicant has been concluded. The information the applicant is said to have received is only from the office of the respondent no.2 and that too orally. The applicant has not produced any document to show that any finding was ever recorded by the enquiry officer or the disciplinary authority exonerating him of the charges levelled against him. There may be various reasons for revoking the suspension during the pendency of the disciplinary proceedings and it is not necessary for us to ascertain the reasons for the revocation of the suspension of the applicant. For the purpose of this case, the enquiry against the applicant is still in progress as stated by the applicant himself and merely because his suspension has been revoked, we cannot quash the further proceedings on the basis of the charge sheet

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served on the applicant. In our opinion, this petition is an example of the misuse of the process of the Court and there is no point for adjudication in this case.

4. The petition is accordingly dismissed at the admission stage.

Sharma
MEMBER (J)

Sharma
MEMBER (A)

Dated: 27.9. 1988
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