

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Registration O.A. No. 641 of 1992

Uma Shankar Singh Chandel ... .. Applicant.

Versus

Union of India  
and others ..... .. Respondents.

Hon. Mr. Maharaj-Din, Member (J)  
Hon. Mr. S. Das Gupta, Member (A)

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( By Hon. Mr. S. Das Gupta, Member (A) )

In this O.A. No. 941 of 1992, the petitioner has challenged the order dated 2.11.1991 (Annexure-A 2) by which he has been placed under deemed suspension w.e.f. the date of his detention in police custody. He has also prayed for quashing of the decision of the respondents to institute the departmental proceedings against the petitioner and to restrain the respondents from proceeding any further in the departmental proceedings against him.

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2. The brief facts of the case are that on 30.4.1991, the applicant along with others allegedly took part in wrongful confinement of certain officers and other staff members inside the factory to press their demand for piece work wages during the 4th week of April, 1991. They allegedly threatened the officials confined and mis-behaved with them. The petitioner along with others were placed under suspension pending enquiry into their conduct w.e.f. 2.5.1991. Subsequently, he was charge-sheeted vide charge memo dated 22.7.1991. Later, by the order

dated 2.11.1991, he was placed under deemed suspension on account of his detention in police custody for more than 48 hours. It is the order dated 2.11.1991 placing the petitioner under deemed suspension and initiation of the disciplinary proceedings by issue of the charge memo dated 22.7.1991 which have been challenged.

3. The respondents, in their counter, while narrating the facts of the case leading to issuance of the suspension order and initiation of the disciplinary proceedings have contended that both the suspension order and initiation of the disciplinary proceedings are perfectly justified in the facts and circumstances of the case. It has also been contended by the respondents that this case is covered by the judgment and order dated 23.3.1993 passed by this Tribunal in the Case of Shyamal Hazara Vs. Union of India and others in O.A. No. 1436 of 1992.

4. In terms of Rule-10 of the C.C.S(C&A) rules, 1965 the competent authority can place a Government Servant under suspension when the disciplinary proceedings against him is contemplated or is pending. Also under sub-rule 2 of rule-10, a Government Servant shall be deemed to have been placed under suspension if he is detained in custody whether on a criminal charge or otherwise for a period exceeding 48 hours w.e.f. the date of his

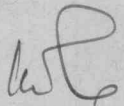
detention. Since in this case, the disciplinary proceedings were contemplated against the applicant and were actually initiated by issue of a charge memo subsequently, the condition precedent for placing the petitioner under suspension did exist and as such, the order dated 2.5.1991 placing him under suspension pending enquiry into his conduct cannot be assailed. Similarly, it has not been denied that the petitioner was detained in police custody for more than 48 hours and, therefore, his being placed under deemed suspension from the date of detention, cannot also be faulted.


5. Subsequent to placing the applicant under suspension pending enquiry into his conduct, the respondents issued a charge memo dat. 22.7.1991 indicating the imputations of mis-conduct. Thereafter, the disciplinary authority have appointed an inquiry officer to enquire into the charges framed against the applicant vide their order dated 30.12.1991 ( Annexure- A 8 ) . There is nothing irregular on the part of the respondents in issuing the charge-memo and thereafter instituting the enquiry into the charges and as long as proper opportunity is given to the applicant to defend himself against the charges, the disciplinary proceedings cannot be faulted. It is pre-mature at this stage to take a view whether the disciplinary proceedings suffer from any infirmity.

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6. In view of the foregoing discussions, the petition is devoid of merits and hence, dismissed. There shall be no order as to costs.

  
Member (A)

  
Member (J)

Dated: 21<sup>st</sup> November, 1993.

(n.u.)