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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

...

Registration O.A. No. 1193 of 1992

S.S. Sengar ... Applicant.

Versus

Union of India  
and others ... Respondents.

...

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

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

In this Original Application filed under  
Section 19 of the Administrative Tribunals Act, 1985,

the applicant has prayed for quashing of the order dated  
4.5.1991 (Annexure- A 1) placing him under suspension  
pending an enquiry into his conduct and the order  
dated 7.5.1992 (Annexure - A 2) by which the  
subsistence allowance payable to the applicant was  
reduced from 75% to 50%. It has, also been prayed  
that he should be allowed to resume duty and the  
period of suspension be treated as period spent on  
duty with all consequential benefits. The petitioner  
has also prayed that the respondents be directed  
to complete the enquiry within a period as considered  
just and proper by the Tribunal.

Wf

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 petitioners along with others were placed under suspension pending enquiry into their conduct vide order dated 4.5.1991. Later, on a review of the case, the quantum of suspension allowance was reduced from 75% to 50% by the competent authority as the petitioner was deliberately delaying the enquiry proceeding. It is these orders, one placing him under suspension and the other reducing the subsistence allowances that have been challenged.

3. The respondents in their counter, while narrating the facts of the case leading to the issuance of the suspension order have contended that the suspension order was perfectly legal in the facts and circumstances of the case. They have also contended that the instant case is covered by the judgment and order dated 23.3.1993 passed by this Hon'ble 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( CC&A) rules, 1965, the competent authority can place a Government Servant under suspension when the disciplinary proceedings against him is contemplated or is pending. 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

4.5.1991 placing him under suspension pending enquiry into his conduct cannot be assailed. Consequently, there cannot be any direction from this court at this stage that the petitioner be re-instated in service or that the period of suspension be treated as period spent on duty.

5. As regards the other reliefs prayed for, viz that the order dated 7.5.1992 reducing the subsistence allowance from 75% to 50 % be quashed and that the respondents be directed to complete the enquiry within a period ~~as~~ as considered just and proper by the Tribunal, the case is fully covered by the judgment and order of this Tribunal in the case of Shyamal Hazra Vs. Union of India and others in O.A. No. 1436 of 1992 dated 23.3.1993. The relevant portion of the order dated 23.3.1993 is being quoted below;

Wf.

"From the facts, it is evident that the Inquiry has been initiated much earlier and because of preliminary objections and the other objections raised by the applicant, the Inquiry could not go ahead. In these circumstances, the subsistence allowance of the applicant on the findings that he was not cooperating has been reduced.

In this view no case for interference has been made out. As far as the suspension order is concerned, charge-sheet having been served upon the applicant and enquiry having started, no case for interference with suspension order too has been made out. But the Respondents

are directed to complete the Inquiry within a period of three months from the date of communication of this order. The applicant shall fully cooperate in the Inquiry. The respondents will see the relevant documents are given to the applicant even if the same documents are not given, the applicant shall not taken that as a ground for not allowing the Inquiry go ahead."

6. In view of the above, the application is devoid of merits. ~~u. u. u.~~ It is, however directed that the respondents shall complete the enquiry within a period of 3 months from the date of communication of this order. The applicant shall fully cooperate with the enquiry authority for the completion of the enquiry. The relevant documents shall be given to the applicant by the respondents and even if some documents are not given to the applicant, the applicant shall not take it as a ground for not allowing the enquiry to go ahead. The application is dismissed with the above directions. There will be no order as to costs.

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MEMBER(A)

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MEMBER(J)

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Dated: 8th November, 1993.

(n.u.)