

(3) 9

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1194 of 1992

10th November, 1994  
This ..... The Day of .....

Brijendra Singh ..... Applicant.

Versus

Union of India & Ors. .... Respondents.

Hon'ble Mr. T.L.Verma, Member-J  
Hon'ble Mr. S.Dayal, Member-A

O R D E R

Hon'ble Mr. T.L.Verma, J.M.

Shri Amit Sthalekar, learned counsel for the respondent has filed objection to the prayer made in the Misc. Application No. 2527/94. Heard learned counsel for the parties.

2. The applicant was put under suspension by order dated 2nd May, 1991 in contemplation of a departmental proceedings. He challenged the validity of the said order by filing O.A. No. 1194/1992. The O.A. filed by the applicant was dismissed with the direction that the respondents shall complete the inquiry within a period of 3 months from the date of communication of the order.

HL

::2::

3. As the respondents could not complete the inquiry within the appointed time, Misc. Application No. 647/94 was moved with a prayer that further 6 months time be allowed to complete the departmental inquiry. While ~~acc~~ceding to the request of the respondents to extend the time for completing the inquiry, it was ordered that ~~in~~case the inquiry is not completed within the extended period, the suspension of the applicant shall stand revoked. This M.A. has been filed for issuing a direction to the respondents to revoke suspension order as the departmental inquiry has not been completed within the extended period of 6 months.

4. Regard being had to the fact in terms of the direction issued in M.A. No. 647/94, the ~~app~~ suspension of the applicant shall stand automatically revoked in case the departmental inquiry is not completed within the extended period of 6 months, ~~and~~ <sup>if</sup> the applicant shall be deemed to have been reinstated w.e.f. the date the period of 6 months expired. That being so, there is, ~~thus~~ <sup>hence</sup>, nothing further to be done in the matter hence, this application for issuing the direction as prayed for is not maintainable and the same is accordingly dismissed.

  
Member-A

  
Member-J

/jw/

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Registration O.A. No. 1194 of 1992

Brijendra Singh ... .. 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 application, filed under Section 19 of the Administrative Tribunals Act, the applicant has prayed for quashing of the order dated 2.5.1991 (Annexure- A 2) placing the applicant under suspension, pending an enquiry into his conduct and the order dated 2.11.1991 (Annexure- A 1) by which the applicant was deemed to be under suspension w.e.f. the date of the detention in police custody, <sup>u</sup>~~be quashed~~. It has also been prayed that he should be permitted to resume his duty and the period be treated as period spent on dut with all consequential benefits. It has also been prayed that appropriate direction be issued to the respondents to complete the enquiry within a period as considered just and proper by the Tribunal.

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 peice work wages during the 4th

week of April, 1991. They allegedly threatened the officials confined and mis-behaved <sup>with</sup> to them. The petitioners 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 12.8.1991. 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 these orders of suspension, the petitioner has 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. The respondents 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. (CS&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 <sup>do</sup> 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, <sup>he</sup> ~~is~~ being placed under deemed suspension from the date of detention, cannot also be faulted.

51. In view of the above, the application is devoid of merits, ~~and hence, dismissed.~~ <sup>u. u. u.</sup> 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.

  
Member (A)

  
Member (J)

Dt: 8th November, 1993

(n. u.)