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Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Registration O.A. No.264 of 1993

Baij Nath Ram      ...    ...    ...      Applicant.

Versus

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

...

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

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

In this O.A. No. 264 of 1993 filed under Sec. 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for the relief of quashing of the order dated 21.7.1989 (Annexure- 1) placing the petitioner under suspension.

2. The brief facts of the case are that the petitioner while working as Khalasi under I.O.W. Tts Hazari, New Delhi in the Northern Railway was placed under suspension by the respondents by the impugned order dated 21.7.1989. It is this order of suspension which has been challenged by the petitioner.

3. We have heard the learned counsel for both the parties and carefully perused the records.

4. The contention of the petitioner is that although he was placed under suspension as far back as on 21.7.1989, no charge-sheet or any other document to show the allegations against the applicant was served either with the suspension order or till the ~~date~~

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date of filing of this application. The main ground on which the suspension order has been assailed by the petitioner is that the same cannot continue for an indefinite period.

5. In their counter reply, the respondents have stated that the petitioner was placed under suspension on account of misconduct with his superior officers. It has also been stated that the petitioner has been served a charge-memo dated 22.10.1992 and an enquiry officer has already been appointed. It has been alleged that the applicant is not cooperating in the enquiry and deliberately avoiding the same. It has also been contended by the respondents that the petitioner is guilty of suppression of material facts in as much as he had filed a petition before Principal Bench of this Tribunal seeking similar relief as sought for in the present application and that petition was dismissed on the ground of suppression of material facts. This order of the Principal Bench was upheld on review. Copies of the relevant orders have been annexed as Annexures R.A.1 and R.A. 2. It appears from these orders that the fact which he had suppressed was that he had moved an application before the Labour Court for the same relief as prayed in the O.A. before the Principal Bench.

6. Although, the petitioner has contended in the Rejoinder Affidavit that he cannot be held guilty of suppression of material facts in the present

O.A. since the relief claimed in this O.A. is for quashing of the suspension order whereas, that ~~OD~~ claimed in the O.A. dismissed by the Principal Bench was relating to payment of subsistence allowance, we are unable to fully accept the contention of the petitioner as both the matters agitated before Principal Bench and being agitated in the present application relate to the fact of his suspension and, therefore, the fact that he had filed a petition before the Principal Bench and the same was dismissed should have been mentioned in the present O.A. particularly in para 7 thereof in which the petitioner has declared that he has not previously filed any application/writ petition/suit regarding the matter in respect of which this application is made. The petitioner <sup>has not</sup> ~~is~~ not, therefore, come with entirely clean hands in this petition.

7. While the petition, therefore, could have been dismissed on the ground of suppression of material facts, we have considered the petition on its merits.

8. The courts/Tribunals <sup>do</sup> not normally interfere with an order of suspension unless it is shown that the order is based on no material or is manifestly perverse or the power was exercised not in good faith but malafide. This is mainly because suspension pending enquiry could not be considered by itself to be an <sup>penalty of</sup> ~~appointment~~. It is, however, settled position of law that suspension

cannot be continued for indefinite period. In this connection, it would be pertinent to take note of the various circulars issued by the Central Government in this regard. From perusal of these circulars which finds place in the Swamy's Compilation of disciplinary proceedings for Central Government Servants, it would be clear that the entire emphasis is on speedy follow up action in cases of suspension and that every endeavour should be made to reduce the period of suspension to the bearest minimum.

9. In the present case, the petitioner has admittedly been under suspension for a period of 3 years without being issued a formal charge-sheet. This is a serious lapse on the part of the respondents, particularly, in view of <sup>the absence of</sup> any averments explaining the reason for such delay in initiating the disciplinary proceedings after placing the petitioner under suspension. However, now that the charge-sheet has already been issued and enquiry ~~officer~~ <sup>officer</sup> has been appointed, we are of the view that the disciplinary proceedings should be brought to speedy conclusion.

10. In view of the foregoing discussions, we disposed of the petition with the direction to the respondents to finalise the disciplinary proceedings within a period of 3 months from the date of communication of this order unless the same have already been finalised. The applicant shall cooperation with the enquiry so that the same could be brought to speedy conclusion.

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11. Parties to bear their own costs.

*hR*  
Member (A)

*Wm*  
Member (J)

Dated: 15 December, 1993.

(n.u.)