

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALIAHABAD BENCH, ALIAHABAD

Dated : this the 28th day of July... 1995.

O. ANo. 821 of 1994.

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

Jai Ram Kamal Banshi
son of late Sri Chhedi Lal,
aged about 52 years, R/o.
128/813, D-K Block, Kidwai Nagar,
District Kanpur-11. applicant.

(By Advocate Sri O. P. Gupta)

Versus

1. Director Quality Assurance (Stores),
Department of Defence Production,
Ministry of Defence, Government of India,
G-Block, New Delhi-110011.
2. Director General Assurance (DGCA)
Department of Defence Production,
Ministry of Defence, Government of India,
South Block, New Delhi -110011.
3. Union of India through Secretary, Ministry
of Defence, Government of India, New Delhi.
..... Respondents.

(By Advocate Sri Prashant Mathur)

O R D E R

(By Hon. T. L. Verma, Member-J)

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1. The applicants while working as Senior Scientific Assistant at Kanpur under the control of Respondent No.1 was arrested on 13.4.1991 and detained in police custody in connection with a criminal case registered for ~~sub-standard of~~

supply of sub-standard ~~of~~ Grease worth Rs. 5.5 Crores. He was, therefore, put under suspension by order dated 18.4.1991 and earlier also he was suspended vide order dated 12.9.1989 on the same criminal charge but, his suspension order ^{was} _{is} revoked vide order dated 15.11.1990.

2. The applicant has challenged his suspension on the ground that there has been abnormal delay in completing the investigation and charge-sheet and also on the ground of discrimination inasmuch as other similarly situated have not been put under suspension.

3. The respondents have resisted the claim of the applicant, inter-alia, on the ground that the competent authority has power to suspend the Government employee who is arrested in connection with a criminal case and extend the same where-ever it is necessary in the circumstances of the case. It is also stated that charge-sheet has already been submitted and sanction for prosecuting the applicant has been obtained as required under Section 19(1)(a) of the Prevention of Corruption Act.

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4. We have heard the counsels for the parties and perused the record. Rule 10(2) of the C.C.S. C. C. A. Rules 1965 reads as follows :-

"10. Suspension.

(1)

(2) A Government servant shall be deemed to have been placed under suspension by an order of appointing authority-

(a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours ;

(b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction."

EXPLANATION: The period of forty-eight hours referred to in clause (b) of this sub-rule shall be computed from the commencement of the imprisonment , if any, shall be taken into account."

From the order Annexure-A-2, whereby the applicant was put under suspension, it is clear that the applicant was arrested on 3.4.1991 and was detained in connection with criminal case and was detained in custody for more than 48 hours the competent authority i.e. Director, Quality Assurance (Stores) was therefore, competent to suspend the applicant under the aforesaid provisions of CCS CCA Rules. Rule 10(1) (b) further empowers the competent authority to continue suspension of a Government employee even after he is bailed out in appropriate cases.

5. From Annexure-A-3, it is clear that charge-sheet has already been submitted and sanction to prosecute the applicant and others has been accorded by order dated 17.12.1990.

6. Out of 14 persons against whom charge-sheet has been given one Sri Heera Lal Gupta stated to have retired and ~~at that~~ thus, it is admitted, have not been put under suspension. The question is whether this

amounts to discrimination so as to vitiates the suspension of the applicant. We have perused the order whereby sanction to prosecute the applicant and others has been accorded. From the facts mentioned in the order it would appear that Sri Heera Lal Gupta J.S.O. alongwith the applicant had visited CCA(PP) on 12.3.1989 and 19.3.1989 while Sri Heera Lal Gupta also visited CCA(PP) on 26.3.1989 and opened the Grease Test House without any permission from the senior authorities, although all these days were holidays(Sundays)and some of the samples drawn from 2, R.P.D. Barabanki were substituted by other samples of the standard quality by them. It also appears that the testing of said samples drawn from 2, RPD Barabanki was undertaken on 27.3.1989 and it was found that the samples have been tampered with. The tampering of the samples in Grease Test House was confirmed by a team of Officers appointed by Shri J. P. Shukla, Deputy Controller, CQAPP, Kanpur. It would, thus clear that that the applicant not arrested only in connection with the case but had ~~also~~ also tried to tamper with evidence by visiting CQAPP on Sundays and substituting the samples kept there by other samples of standard quality. The case of the applicant thus, it is clear, stands on different footing.

7. The appointing authority/disciplinary authority suspends an employ~~ee~~ pending investigation or ^{trial} ~~prior~~, after taking into account the gravity of mis-conduct sought to be inquired into or investigated and the nature of evidence placed before him. The


8. From the order Annexure-A-3 and the rejoinder reply on behalf of the respondents, it appears that the criminal case in which the applicant is implicated pertains to supply of sub-standard of grease to ~~different~~ ^{defence} establishments. This alleged criminal act is not only resulting in loss of Rs. 1.55 Crores but also putting the defence establishments in jeopardy. The investigation indicating the allegation ~~was~~ already mentioned above reveals that the applicant ~~has~~ not only committed the alleged crime but also had tried to tamper with the evidence. The allegation made, in our opinion are very serious and as such we do not consider ~~it~~ appropriate to interfere with the order of suspension of the applicant.

9. In addition to above, it is well settled that suspension ~~is~~ not a punishment but is only one of forbidding order dis-abling an employee to discharge his duties of the office and post held by him. ~~As such in~~ ~~order~~ there is no ~~intention~~ of malafide ~~for~~ ⁱⁿ putting the applicant under suspension. We do not find from the material on record that the action is arbitrary or for ulterior purpose. We have no manner of doubt that the suspension of the applicant is in keeping with public interest. and therefore, does not call for any interference.

10. In view of the above, we find no merit in this application and dismiss the same. It will, however, be open to the competent authority to review the case of the applicant in the light of the fact that the charge-

sheet has already been submitted and decide whether the continuance of ~~the~~ suspension is still necessary.

There shall be no order as to costs.


A.M.


J.M.

VKP/-