

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 1373 of 1995.

Allahabad this the 8th day of April, 2002.

Hon'ble Mr. S. Dayal, Member- A.
Hon'ble Mr. A.K. Bhatnagar, Member- J.

Dr. Suresh Chandra Saxena, Principal Scientist,
a/a 59 years, S/o Late R.C. Lal
R/o Principal Scientist, C.I.R.G,
Makhdoom, Farah, Mathura.

.....Applicant

Counsel for the applicant :- Sri K.K. Mishra

V E R S U S

1. Union of India through the Secretary,
I.C.A.R, Ministry of Agriculture,
Krishi Bhawan, New Delhi.
2. Director (Personnel), Indian Counsel of
Agriculture Research, Krishi Bhawan, New Delhi.
3. Deputy Director (Personnel), I.C.A.R,
Krishi Bhawan, New Delhi.

.....Respondents

Counsel for the respondents :- Sri R. Tiwari
Sri N.P. Singh

O R D E R

(By Hon'ble Mr. A.K. Bhatnagar, Member- J.)

This application has been filed under
section 19 of the Administrative Tribunals Act, 1985,
seeking relief by direction of this Tribunal to give
arrears of salary with interest including all other
allowances during the suspension period of the applicant

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from 27.09.1989 to 31.05.1994.

2. The brief facts giving rise to this application are that the applicant was appointed as Research Assistant at Indian Veterinary Research Institute, Izzantnagar in the year, 1971 and was working as Principal Scientist, C.I.R.G, Makhdoom, Farah, Mathura. On 30.11.1988, a FIR was lodged and a case under section 409, 468, 477-A of IPC and section 5(2) read with section 5(1) of prevention Act, 1947 was registered against him. It is alleged that on the basis of this FIR, the applicant was placed under suspension from 27.09.1989 vide suspension order dated 27.09.1989 (annexure A-2) which was later on revoked by order dated 31.05.1994 (annexure A-5). There was a case registered and investigated by the CBI (A&B), Shillong and the investigation agency submitted the final report dated 16.02.1991 under section 173 CRPC (annexure A-3) after the investigation which was accepted by the Special Judge, Shillong vide his order dt. 18.04.1991 (annexure A-4) and the applicant was discharged due to insufficient evidence to proceed with the case. Now the grievance of the applicant is that he has not been paid salary and other allowances during the aforesaid period of suspension i.e. 27.09.1989 to 31.05.1994.

3. We have heard Sri K.K. Mishra, the learned counsel for the applicant and Sri D.P. Tripathi, proxy counsel to Sri Rakesh Tiwari, the learned counsel for the respondents and perused the pleadings on record before us.

4. It is evident from the record that several representations were sent to the respondents to this effect by the applicant. The respondents in their CA have merely stated that the applicant is not entitled

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for any arrears and allowances as the departmental enquiry is pending against him. Later on the applicant ^{by} and served ^{by} was suspended/ by memorandum of charge dated 07.01.1993 ~~xxxxxx~~ against which ^{he} the applicant ^{has} filed an ^{an} O.A No. 305/1995 with prayer for quashing the memorandum of charges dt. 07.01.1993 and impugned proceeding No. N-4/SCG/206 dated 10.11.1994. This O.A was decided by this Tribunal vide order dated 29.05.2001 with the following findings :-

"We find that the learned counsel for the respondents is not able to cite any case in which final report had been submitted by the police and after the final report submitted and accepted by the competent court, a departmental enquiry was initiated on the same set of facts against the charged official as far as the first imputation against the applicant is concerned. The FIR lodged with the CBI was for issuance of money receipts to different customers by showing less weight of pigs and accordingly the difference in value of the pigs were mis-appropriated. This complaint was also investigated by the CBI and the final report had been submitted in the court of Special Judge, Shillong, which was accepted. Hence, the enquiry on this charge would not be as per law laid down by the Hon'ble Supreme Court in the case of Capt. M. Paul Anthony (Supra). However, as far as the second charge of tampering of record is concerned, the respondents can proceed against the applicant and complete the enquiry within a reasonable period of time. Thus, the relief is partly allowed. The respondents are directed to complete the enquiry within three months from the date of communication of this order."

5. The learned counsel for the applicant has no enquiry has been conducted till date and submitted that the applicant has been discharged by the competent court in the criminal case levelled against him ^{by already} ^{AN}

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and was re-instated and as such he was entitled for the arrears of salary for the period of suspension.

6. It is further submitted that now the main grievance of the applicant is that in the instant case, no specific order had been passed by the respondents at the time of revocation of the suspension of the applicant which is mandatory under FR 54-B(1) which is reproduced below :-

" When the Government servant who has been suspended is reinstated or would have been so reinstated but for his retirement (including premature retirement) while under suspension, the authority competent to order reinstatement shall consider and make a specific order :-

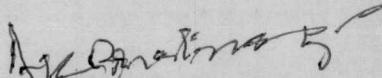
- (a) regarding pay and allowances to be paid to the Government servant for the suspension ending with reinstatement or the date of his reinstatement (including premature retirement), as the case may be; and
- (b) whether or not the said period shall be treated as a period spent on duty."

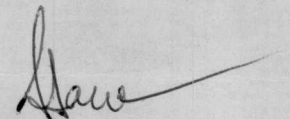
7. The learned counsel for the respondents has rebutted the claim of the applicant in the CA and has submitted that even after the acquittal by the criminal court, the employer has right to institute the domestic enquiry against the delinquent employee and is not barred. It is further contended that the decision by the authority under FR-B (1) will be taken by the competent authority after the conclusion of domestic enquiry and the applicant is not entitled to any relief as prayed by him during the pendency of the enquiry proceedings.

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8. In the present case, we find that the respondents have not passed any specific order regarding pay and allowances to be paid to the applicant after his retirement. The action of the respondents is, therefore, not justified. We, therefore, allow this OA and direct the respondents to pass specific order in terms of aforesaid provisions regarding arrears of salary with interest and other allowances to be paid to the applicant within two months and if any payment is found due to the applicant as per rules, it shall be made within next two months.

9. There shall be no order as to costs.


Member- J.


Member- A.

/Anand/