

O.A. No. 958 Of 1995

22.9 .1995

Hon. Mr. S. Das Gupta, Member(A)
Hon. Mr. T.L. Verma, Member(J)

This case was listed for admission. We have heard Sri Janardan Sahai, learned counsel for the applicant who argued in extenso on a prayer for interim relief staying the operation of the impugned order of suspension.

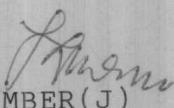
Under challenge in this application is an order dated 18.9.1995 by which the applicant has been placed under suspension. The burden of argument of the learned counsel for the applicant was on two folds; In the first place, he argued that the order of suspension has come close on the heels of an order of transfer dated 10.9.1995 by which this applicant was transferred from Allahabad to Lucknow. It was stated that the applicant has filed another O.A. challenging the order of transfer and a Bench of this Tribunal had granted an order directing the respondents to maintain status quo when that application came up for admission. The learned counsel for the applicant contended that the order of suspension is, in reality, an act of vengeance on the part of the authorities, having been frustrated by the interim order given by a Bench of this Tribunal with regard to the order of transfer.

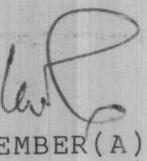
The second leg of the argument was that the imputations in the order of suspension are general and vague in nature and do not indicate any serious misconduct on the part of the applicant. The learned counsel for the applicant argued that it is settled law that suspension should be ordered only in certain specified circumstances and such circumstances do not exist in ~~this~~ case. He relied on a decision of the Ernakulam Bench in the case of K. Lakshmana Vs. Chief Secretary of Govt. of Kerala and others, (1992) 22 ATC, 172. He also cited a decision of the Supreme Court in the case of R.C. Sood Vs. High Court of Rajasthan, 1995 SCC(L&S), 231. The learned counsel for the applicant also cited a case of Subramanian Vs. State of Kerala (1973) SLR 521, in which the High Court inter alia decided that where by transferring a delinquent employee,

the purpose can be served, suspension should not be resorted to. While the various grounds taken by the learned counsel for the applicant could be validly taken for the substantive relief of quashing of impugned order of suspension, we are of the view that such grounds would not be sufficient to pass any interim order staying the operation of the order of suspension, as such ~~of~~ interim order ^{which} ~~what~~ in reality be in the nature of substantive relief which can be granted only after hearing both the parties. We have, infact, noted that in the cases cited by the learned counsel for the applicant ^{whether} ~~whether~~ orders of suspension were quashed, such relief was granted only after hearing both the parties. We, therefore, considered it appropriate to give an opportunity to the Opp. Parties to state their case and thereafter, decide the matter finally.

In view of the foregoing, we direct that the notice be issued to the respondents to file reply within 3 weeks and the applicant shall be at liberty to file R.A. within 2 weeks thereafter. List this case on 3.11.1995 for orders. The prayer for interim order is rejected for the reasons aforementioned.

Sri N.B. Singh, appeared on behalf of the respondent No. 1 while Sri P.P. Srivastava, appeared on behalf of State of U.P.


MEMBER (J)


MEMBER (A)

(N.U.)

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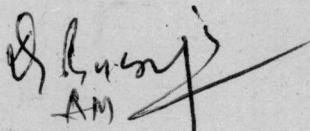
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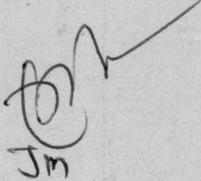
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Hon. Dr. R.K. Sarvra Jm

Hon Mr. D.S. Bawejr AM

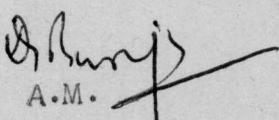
None is present for the parties. The matter is, however, adjourned to 5-12-95.


Dr. Bawejr
AM


J.M.


Dr. Bawejr

Subsequently at 4.30 P.M. Sri Rajesh Pathik, Learned Counsel for the Applicant and Sri N.B. Singh Counsel for the Respondent No. 1 and Sri P.P. Srivastava, Counsel for the Respondent No. 2 are present. Sri Rajesh Pathik prays that the Applicant does not want to proceed with this case and the OA be dismissed as withdrawn. Allowed.


Dr. Bawejr
A.M.


J.M.