

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1337 OF 2003

ALLAHABAD, THIS THE 06th DAY OF NOVEMBER, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Udai Pratap Singh
aged about 37 years son of Late Shri Vindeshwari Singh,
resident of Siddheshwar Nagar Colony,
Near I.T.I. Jhansi.

.....Applicant

(By Advocate : Shri R.K. Nigam)

V E R S U S

1. Union of India through Secretary, Ministry of Agriculture, Govt. of India, New Delhi.
2. Secretary, Indian Counsel for Agricultural Research, Krishi Bhawan, New Delhi.
3. Director, National Research Centre for Agroforestry Gwalior Road, Jhansi.

.....Respondents

(By Advocate : Shri B.B. Sirohi)

O R D E R

By this Original Application, applicant has challenged the order dated 15.03.2003 by which he was under deemed suspension. He has further sought a direction to the respondents to immediately reinstate the applicant back in service and allow him to discharge his duties as usual during the pendency of the criminal trial and such other order or direction that this court deems fit in the circumstances of the case.

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2. It is submitted by the applicant's counsel that the only ground on which he was put under deemed suspension was because by the impugned order ^{w&} applicant was detained in custody for more than 48 hours since 13.03.2003. He has submitted that applicant was granted bail by the Court of Special Judge (Anti Corruption)-(West) C.B.I. Lucknow in R.C. No.4 A of 2003 on 12.05.2003 and he was released on 14.05.2003.

3. It is submitted by the applicant that when he was released on bail, he gave his representation to the Joint Director (Pg.16) on 02.07.2003 followed by another representation addressed to the Director on 13.08.2003 (Pg.17) requesting the authorities to reinstate him in service as he has not ~~yet been~~ convicted in criminal case and the only purpose for which he was put under deemed suspension is already over. But till date none of his representations have been decided by the authorities. Thus, he is forced to file the present O.A. seeking the reliefs as mentioned above.

4. Counsel for the applicant submitted that this case is fully covered by the Full Bench decision rendered by Hon'ble High Court of Judicature at Allahabad in Full Bench Decision wherein the object and purpose of deemed suspension has been explained in details. It has been held by the Hon'ble High Court in the above said judgment which is reported in 1997 UPLBEC 165, ~~It has been held~~ that deeming rule would be limited to the period of retention only. In the operative

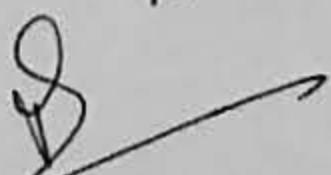


portion, the Full Bench has held as under:-

- "(A) Sub-clause (a) of sub-rule (2) of Rule 49-A of the Civil Services (Classification, Control and Appeal) Rules 1930, as applicable in Uttar Pradesh is not violative of Articles 14 and 21 of the Constitution of India as held in case of JAGJIT SINGH V. STATE OF U.P. reported in (1996)1.UPLBEC 405 and the judgment is hereby over ruled.
- (B) The legal fiction envisaged under sub-rule (2) (a) and (b) of Rule 49-A shall come into play and a deemed suspension by an order of the appointing authority shall come into existence if the Government servant is detained in custody for more than forty eight hours even in absence of any order in writing passed by the appointing authority.
- (C) The deemed suspension provided under sub-Rule (2) of Rule 49-A shall be confined to the period of detention in custody and not beyond that.
- (D) The deemed suspension by an order of the appointing authority under the legal fiction provided in sub-rule (2) may be continued after release by the appointing authority by passing an express order taking into account the guidelines provided in other sub-rules of Rule 49-A according to the facts and circumstances of the case.
- (E) The deemed suspension under sub-rule (2) of Rule 49-A may be modified or revoked by the appointing authority on a representation made by the Government servant which shall be considered and decided taking into consideration the guidelines provided in sub-rule (1) and (1-A) of Rule 49-A."

5. It is in this background that counsel for the applicant submitted that he may be given liberty to file fresh representation to the authorities concerned along with the copy of the judgment, so that they may consider the facts in the background of the judgment and decide the same within the stipulated period by passing a reasoned and speaking order.

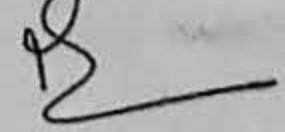
I find his request to be reasonable and most genuine because even otherwise instructions ^{are} issued by the Government of



India wherein it is stipulated clearly that once a person is suspended even though it is not a punishment none-the-less ~~it~~ causes mental torture to the suspended employee and the department also has to pay the suspended employee without taking any work from him. Therefore, it is ~~seen~~, in the interest of both that the case should be reviewed by the authorities concerned to see if the person can be reinstated in service ~~reviewing~~ by ~~reinstating~~ suspension by placing him in some non-sensitive post.

In the instant case, it is seen that applicant was suspended on 15.03.2003 and more than 6 months have already passed by, therefore, even in normal course, respondents ought to have ~~seen~~ reviewed his case, but the same has not been done till date as alleged by the applicant. Therefore, interest of justice would be met, ^{if B} liberty is granted to the applicant to give a detailed representation to the competent authority giving therein all the facts along with a copy of the judgment relied upon by the applicant within a period of 2 weeks from the date of receipt of a copy of this order. In case, applicant gives such a representation, the competent authority shall decide the same after putting the case of the applicant before the reviewing committee within a period of 6 weeks thereafter. It goes without saying that the order to be passed by the competent authority shall be reasoned and detailed order under intimation to the applicant.

6. With the above direction, this O.A. is disposed off at the admission stage itself with no order as to costs.


Member-J

shukla/-