

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

OA 505/2001

Monday, this the 11th day of February, 2002.

CORAM :

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

K.T. Murali Mohanan Nair,
Aged 40 years, S/o P. Thankappan Nair,
Junior Telecom Officer, OCB Installation,
Kollam, residing at Sharat Gardens,
Pada North, Karunagappilly. Applicant

(By Advocate Mr. C.S.G.Nair)

Vs

1. Union of India rep. by
The Secretary,
Ministry of Communications,
New Delhi.
2. Chief General Manager,
Bharat Sanchar Nigam Limited,
O/o the Chief General Manager,
Telecom, Kerala Circle,
Trivandrum.
3. General Manager,
Bharat Sanchar Nigam Ltd.,
O/o the General Manager,
Telecom District, Kollam. Respondents

(By Mrs. S. Chitra, ACGSC)

The application having been heard on 11.2.2002, the Tribunal on the same day delivered the following :

ORDER

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN

The applicant, Junior Telecom Officer has filed this application impugning an order dated 21.6.2000 A2 by which the 3rd respondent placed him under suspension in exercise of the powers conferred by sub-rule (1) of Rule 10 of the Central Civil Services(Classification, Control and Appeal) Rules, 1965 [CCS(CCA) Rules, 1965 for short] as a criminal case against him was under trial and also an order dated 12.10.2000 A5 by which his appeal against the A2 order was disallowed. The facts leading to the impugned orders can be briefly stated as below.

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2. In the year 1996, a raid was conducted by the C.B.I. in the house of the applicant. Two years thereafter, the General Manager, Telecom District, Kollam by order dated 29.6.1998 accorded sanction for initiating proceedings against the applicant under the prevention of corruption Act for the alleged offence of being in possession of wealth, disproportionate to the known source of his income and assets. When the case under investigation the applicant was reverted as J.T.O. from the officiating post of S.D.E. During the course of the investigation, the applicant was allowed to continue in the post of J.T.O. at Kollam. However, when the trial was in the midway after examination of many witnesses the applicant was placed under suspension by the 3rd respondent by A2 order dated 21.6.2000. Aggrieved by this order of suspension, the applicant approached this Tribunal filing OA 874/2000, which was disposed of directing the applicant to file an appeal against the impugned order of suspension to the competent authority within ten days and directing the respondents that if such an appeal be filed within the said time the same should be considered by the competent authority and disposed of on merit. Pursuant to the above order of the Tribunal, the 2nd respondent considered the appeal of the applicant and disposed of by order dated 12.10.2000(A5).

3. The applicant challenges the two orders on the ground that the suspension was not warranted, that as the investigation in the case was already over and there was no apprehension that the applicant would tamper with the evidence, no purpose is served by placing the applicant under suspension.

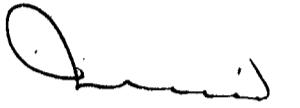
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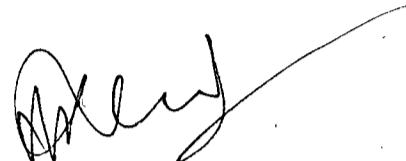
4. We have gone through the pleadings in this case and have heard the learned counsel on either side. The learned counsel for the applicant referred us to the ruling of the Principal Bench of the Central Administrative Tribunal in OA 833/2000 - Shri Bani Singh, IRS, Deputy Commissioner, Income Tax Vs. Union of India and Others, wherein the Tribunal had quashed and set aside the orders of suspension and directed the respondents to reinstate the applicant. The facts of the case in Bani Singh Vs Union India & Others are different from the facts of the present case. In Bani Singh Case the Tribunal noted that the applicant in that case was under suspension for a long time during investigation and when he claimed revocation, it was contended that revocation would hamper investigation. Noting that even after investigation the prolonged suspension was not justified, the Tribunal directed reinstatement. Here during investigation and even till the middle of the trial the competent authority did not place the applicant under suspension. Only after many witnesses were examined the competent authority considered it necessary to place the applicant under suspension. The competent authority found that to continue the applicant who faces trial on allegation of amassment of wealth amounting to nearly 9 lakhs disproportionate to the known sources of his assets and income involving moral turpitude should not be allowed to discharge the duties of the post till he is cleared of the cloud. We find no reason to interfere with the conclusion of the competent authority and the resultant order of suspension. Rule 10 (1) (b) permits the competent authority to place an officer under suspension when a criminal case against him is pending trial. Only if that power is exercised for oblique motive judicial intervention can be justified. There is no allegation of any malafides against

the 3rd respondent who issued Annexure A2 order. The 2nd respondent has given cogent reason in A5 order for not interfering with A2 order of suspension.

5. In the light of what is stated above, we do/find any merit in this original application and therefore we dismiss the same without any order as to costs.

Dated the 11th February, 2002.


T.N.T. NAYAR,
ADMINISTRATIVE MEMBER


A.V. HARIDASAN,
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. A-1: True copy of order No.SID/3-GO/97-98/1/95 dated 5.6.98 issued on behalf of the respondent.
2. A-2: True copy of order No.X.1/Disc/KTMN/2/1998/5 dated 21.6.2000 issued by the 3rd respondent.
3. A-3: True copy of order dated 28.2.2000 in OA No.874/2000 of this Hon'ble Tribunal.
4. A-4: True copy of appeal dated 10.9.2000 submitted by the applicant before the 2nd respondent.
5. A-5: True copy of order No.VIG/11-43/96.I/105 dated 12.10.2000 issued by the 2nd respondent.
6. A-6: A true copy of the order dated 6.2.2001 in OA 833/2000 of Principal Bench, New Delhi.

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