

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.606/98

Friday this the 24th day of April, 1998.

CORAM:

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

HON'BLE SHRI S.K.GHOSAL, ADMINISTRATIVE MEMBER

J.Sudhakaran,
No.7 Officers Quarters, Kaudiar,
Trivandrum.

..Applicant

(By Advocate Mr. K.P.Satheesan)

vs.

1. The Secretary to Government of India, Department of Personnel and Training, New Delhi.
2. State of Kerala, represented by Chief Secretary, Government Secretariat, Trivandrum-695 001.
3. The Secretary, General Administration, (Special (A) Department), Trivandrum.
4. The Director, Vigilance and Anti-Corruption Bureau, Trivandrum. ..Respondents

(By Advocate Mr.C.T.Ravikumar)

(Mr.K.S.Bahuleyan for SCGSC)

The Application having been heard on 24.4.1998, the Tribunal on the same day delivered the following:

ORDER

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

The applicant who is a senior member of the Kerala cadre of the Indian Administrative Service has filed this application under Section 19 of the Administrative Tribunals Act impugning the order dated 7.8.97 of the second respondent whereby he was placed under suspension invoking powers under Sub Rule 3 of Rule 3 of the All India Services(Discipline & Appeal) Rules,1969. In the order of suspension A-1, the grounds for placing the applicant under

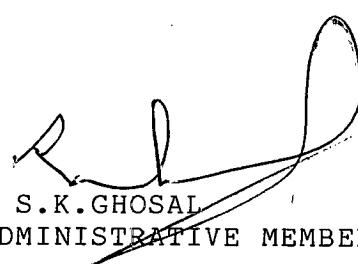
suspension has been stated. It has been stated that the Director of Vigilance & Anti- Corruption Bureau had registered a vigilance case (No.2/97) under Section 13(2) read with Section 13 (i)(d) of the Prevention of Corruption Act, 1988 and Section 120(B) of the Indian Penal Code, 1960 against 8 persons including the applicant and that the Government considering the gravity of the offence and the degree of moral turpitude has decided that it would be in public interest to keep the applicant under suspension. The applicant has alleged in the application that 5 persons who were accused along with the applicant in the vigilance case No.2/97 has been directed to be reinstated by the Hon'ble High Court of Kerala in its order in W.A.No.1985/97 and W.A.No.2054/97, that despite his representation made to the second respondent on 11.8.97, his case for reinstatement has not been considered so far. He has also stated that he is not guilty of any of the criminal misconduct alleged against him, that he has acted only according to the directions of the Government and therefore there is no basis for the criminal investigation. The continuance of the applicant in service according to him will not jeopardise the investigation or would not in any way adversely affect public interest. With these allegations the applicant has filed this application praying for setting aside the impugned order A-1 and for a direction to the respondents to reinstate him in service and in the alternative, to direct the second respondent to take a decision on A-4 and A-6 representations.

2. Suspension is an administrative action taken on considerations of the factors which are relevant and material. Unless it is made out that the power to suspend

has been used for oblique motives or in contravention of the rules, judicial intervention in such orders are not generally justified. Taking note of this difficult situation, learned counsel of the applicant prayed that the alternative reliefs as prayed for in this application, namely, a direction to the second respondent to consider the request made by the applicant in A-4 and A-6 representations may be granted. Learned counsel appearing for the State of Kerala as well as for Union of India have no objection in giving such a direction.

3. In the result, the application is disposed of directing the second respondent to consider the representations made by the applicant at A-4 and A-6 and to take an appropriate decision and to communicate the same to the applicant within a period of one month from the date of receipt of a copy of this order. No costs.

Dated the 24th April, 1997.


S.K.GHOSAL
ADMINISTRATIVE MEMBER


A.V.HARIDASAN
VICE CHAIRMAN

LIST OF ANNEXURES

1. Annexure A-1 : Order No. G.O. (Rt.) 6776/97/GAD dt. 7-8-97 issued by the 2nd respondent.
2. Annexure A- 4 : Representation dt. 27-12-97 filed by the applicant to the 1st respondent.
3. Annexure A- 6 : Representation dt. 11-8-97 filed by the applicant to the Government of Kerala.
