

(1-C)

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.193/2007
This the 31st day of May 2007

HON'BLE MR. A.K. SINGH, MEMBER (A)
HON'BLE MR. M. KANTHAIAH, MEMBER (J)

Om Prakash Gupta, aged about 43 years, son of Shri Surya Lal,
Resident of -C-177/4, Defence Colony, Bahadur Shah Road,
Lucknow Cantt. , Lucknow.

...Applicant.

By Advocate: Shri Praveen Kumar.

Versus.

Union of India through

1. The Secretary, Ministry of Defence, New Delhi.
2. Sri S.C. Nagpal, Principal Director Defence Estate, Central Command, 17, Carrippa Road, Lucknow Cantt. Lucknow.
3. Smt. Bhawna Singh, Defence Estate Officer, Lucknow Circle, 30 Nehru Road, Lucknow.

By Advocate: Shri Atul Dixit for Dr. Neelam Shukla.
Shri Rajendra Singh for R-2 &3.

ORDER (Oral)

BY HON'BLE MR. MR. A.K. SINGH, MEMBER (A)

O.A.No.193/2007 has been filed by the applicant, Om Prakash Gupta (of the address given in the OA) against the impugned order of suspension dated 30.06.2006 annexed as (Annexure-1) to the OA.

2. The brief facts of the case are that the applicant has been working on the post of SDO Grade-III and has rendered more than 19 years of service with the respondents. The applicant was arrested and accordingly detained in the custody by the Central Bureau of Investigation (CBI) in pursuance of the case Regd. RC 0062006A0009 under Section 7 and 13 (2) read with 13 (1) (d) of Prevention of Corruption Act, 1988 for allegedly demanding and accepting illegal

gratification from one Sri Raju Sonkar. In pursuance to the same the Competent authority suspended the applicant by order-dated 30.06.2006 contain as (Annexure-1) to the OA. As per Rule 10 sub rule 6 of CCS (CCA) Rules, 1965, an order of suspension made or deem to have been made under this rule shall be reviewed by the authority which is competent to modify or revoke the suspension before expiry of 90 days from the date of order of suspension on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. However, there is no explanation from the counsel for the respondents before the Court on the point whether the review has been taken within the prescribed period of time or not.

3. The Counsel for applicant Shri Praveen Kumar submits that no review has taken place in the matter relating to the suspension within the prescribed period of 90 days. Shri Atul Dixit holding brief for Dr. Neelam Shukla submits that the applicant has already sought remedy within the department by filing an appeal against the impugned order of suspension Dt. 30.06.2006 and the same is under the departmental channel hence this Tribunal is not entitled to hear the question in the present OA.

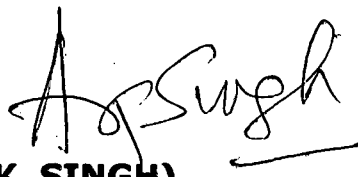
4. We have considered the submissions made by the learned counsel for both the side. We find that the interest of justice will be adequately met if we issue a suitable directions to the competent authority, who is vested with the power of hear the appeal i.e. Respondent No.2 to consider and decide the matter taking into account the submissions of the applicant that the statutory requirement of review within 90 days from the date of suspension have not taken place and therefore the impugned order of suspension is not maintainable in law. Since all the records will be available for considering the appeal is with the Respondent No.2 and he is in better

position to take a decision, accordingly, we issue directions to the Respondent No.2 to consider and decide the above matter within a period of 2 months by passing a reasoned and speaking order from the date of receipt of the certified copy of this order. However, if the applicant is still aggrieved by the decision/ orders of the Appellate authority, liberty is given to him to approach this Tribunal again, if so advised. No costs.


(M. KANTHAIAH)
MEMBER (J)

/amit/

31.5.07


(A.K. SINGH)
MEMBER (A)