

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No. 451/2008

This, the 16th Day of March, 2009

Hon'ble Mr. M. Kanthaiah, Member (J)

Hon'ble Dr. A. K. Mishra, Member (A)

Bankatesh Bahadur Singh, aged about 59 years, son of Late Mahabir Singh, resident of 2/8, Vishal Khand, Gomti Nagar, Lucknow.

Applicant.

By Advocate Sri Prasant Chandra, Senior Advocate Assisted by Sri Shishir Jain.

Versus

1. The Union of India through Secretary, Department of Personnel and Training, Ministry of Public Grievance and Pension, North Block, New Delhi.
2. The State of U.P. through Principal Secretary (Appointment), Department of Personnel, Government of U.P. Civil Secretariat, Lucknow.

Respondents.

By Advocate Sri S. P. Singh for Respondent No. 1.
Sri A. K. Chaturvedi for Respondent No. 2.

ORDER

By Hon'ble Dr. A. K. Mishra, Member (A)

In this application, the applicant assails the suspension order dated 13.5.2007 passed by respondent No. 2 and its further extension orders dated 08.08.2007, 07.11.2007, 30.01.2007, 2.05.2008, 30.7.2008 and 23.10.2008 and also the order dated 25.11.2008 of the respondent No. 2 by which it was directed that he would continue to remain under suspension until finalization of the second inquiry instituted against him vide order dated 25.11.2008.


2. The applicant is seeking, by way of relief, an order to quash the suspension order dated 13.5.2007 and all the other consequential orders extending the suspension period. The next prayer is to quash the order dated 25.11.2008 contained in Annexure A-8 to the Original Application and also for a direction for his reinstatement with full salary for the period in which he was kept in suspension.



3. The learned counsel for the respondents raised two preliminary objections :- (i) that this application is not maintainable in terms of Section 20 of the Administrative Tribunal Act 1985, as the applicant has not availed himself of the alternative remedy under the relevant rules for redressal of his grievance;

(ii) that the application seeks multiple reliefs and is hit by Rule -10 of CAT (Procedure) Rules 1987.

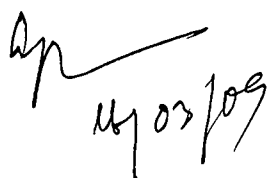
The learned counsel for the applicant explained that this Tribunal had earlier considered the submissions of the applicant against the impugned suspension order dated 13.5.2007 in O.A. 177/2008 and directed that the applicant should file an appeal under Rule 16 of the All India Service (Disciplinary and Appeal) Rules, 1969 before the Central Government which should decide the appeal within three months. Pursuant to this direction, the applicant filed an appeal before the Central Government. But the Respondent No. 1 have not disposed of the appeal even now although the specific time limit fixed by this Tribunal has expired long since. Neither have they filed any application before this Tribunal for extension of the time limit. Non-disposal of the appeal by respondent No. 1 within the time limit prescribed for the purpose by this Tribunal amounts to denial of opportunity and his right to redressal of grievance available to him under rules. Therefore, this ground cannot be justifiably taken against the applicant to prevent him from filing this O.A. before the Tribunal. Admittedly, no application has been made by Respondent No. 1 for extension of the time limit which was fixed for disposal of the appeal in O.A. No. 177/2008. Therefore, the applicant is within his right to file this O.A. and the maintainability of the O./A. cannot be questioned on the ground that there was alternative remedy available to him under the rules, particularly when no action has been taken on his appeal within the time limit fixed for the purpose. The learned counsel for the applicant cited the judgment in P.N. Srivastava Vs. State of U.P. and others (1999) 1 UPLBEC 672 to support his contention that when a direction of a Court is not complied with within the time limit and when no application


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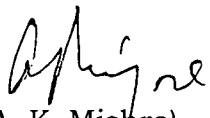
for extension of time is filed within the limit, any action taken thereafter would stand vitiated. We find merit in the contention of the applicant and overrule the objections about maintainability of the application on this ground.

4. The Second objection is about seeking plural reliefs in a single O.A. From the recital of the prayer of the applicant, it is clear that he is seeking direction against two substantive orders; one dated 13.5.2007 and the second dated 25.11.2008 by means of which another disciplinary proceeding has been instituted against him and he has been placed under suspension in this case under Rule 3(7) (b) of the All India Services (Discipline and Appeal) Rule, 1969. These are two separate causes of action relating to two different disciplinary proceedings. In respect of the first proceeding, the suspension order was issued under Rule 3 (1) of the aforesaid rules, whereas the second suspension order dated 25.11.2008 was passed under Rule 3(7) (b) of the aforesaid rules. The purport of Rule 3(7) (b) is that a fresh suspension order is not necessary if an officer is already under suspension in connection with another disciplinary proceeding, and it is enough if the authority, for reasons to be recorded in writing, directs that he would continue to remain under suspension subject to the Review Provision of Sub Rule-8. Such a provision does not imply that the latter order is consequential in nature with reference to the original cause of action. On the other hand, it is related to a completely different cause of action. It only says that he will also continue to remain under suspension also for the latter disciplinary proceeding.


5. In view of the foregoing, we find that the two orders relate to two different disciplinary proceedings and are completely separate from each other by way of causes of action. Therefore, we find that the objection of the learned counsel for the respondent that this application suffers from the infirmity of seeking plural reliefs is valid. As a result, the maintainability of this O.A. in the present form cannot be sustained in view of Rule 10 of C.A.T.


14/03/09

(Procedure) Rules. However, it is for the applicant to rectify the defect and pursue relief against the two separate causes of action in separate applications.


(Dr. A. K. Mishra)
Member (A)

11/03/09


(M. Kanthaiah)
Member (J)

v.