

Central Administrative Tribunal, Lucknow Bench, Lucknow

ORIGINAL APPLICATION No.270/2009

This the ^{12th} day of September, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Dr. A.K. Mishra, Member-A

Yamleshwar Singh, aged about 59 years, son of Late Jharkhandey Singh, Resident of Village and Pot Office Barthara Kalan, Police Station Chaubey Purva, District Varanasi.

.....Applicant

By Advocate: Shri M.A. Siddiqui.

Versus.

1. Union of India through Secretary, Ministry of Railways, Rail Bhawan, Government of India, New Delhi.
2. Deputy Chief Engineer, BW, Northern Railway, Lucknow.
3. Executive Engineer, Branch Line, Northern Railway, Alambagh, Lucknow.

.....Respondents

By Advocate: Shri B.B. Tripathi for Shri N.K. Agrawal.

ORDER

Hon'ble Ms. Sadhna Srivastava, Member (J)

The prayer is to quash the Suspension order dt.20.12.2008 (Annexure-1) and grant consequential benefits.

2. The facts are that the applicant while posted as Material Checking Clerk (MCC) was arrested in a corruption case on 19.12.2008 and remained in custody for more than 48 hours. He was bailed out in February, 2009 as alleged in para-4 of the application. The suspension order passed on 20.12.2008 was revoked by the respondents w.e.f. the forenoon of 15.7.2009. The investigation has been completed and charge sheet against the applicant already filed in the Court of Special Judge Anti Corruption (West), Lucknow, as stated in para-6 of Short Counter Affidavit.

3. Heard the counsel of parties and perused record.

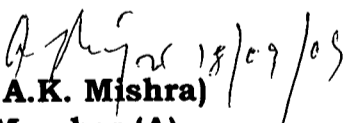



4. It is settled position of law that the suspension order has to be reviewed after expiry of 90 days and can be extended up to 180 days. It is not disputed that no review took place after expiry of 90 days. Instead, the suspension order was revoked by the competent authority on 15.07.2009 as mentioned above. Therefore, the only question is whether the continuances of suspension order after expiry of 90 days is lawful. We are of the opinion that the suspension order shall be deemed to have come to an end after expiry of 90 days due to inaction on the part of the competent authority. The applicant has also raised this plea in para-9 of the application saying that the suspension order has come to an end on 18.03.2009. We agree with this.

5. Resultantly, we hold that the suspension order came to an end w.e.f. 18.03.2009 and the applicant is entitled to consequential benefits i.e. salary of the post of Material Checking Clerk (MCC) w.e.f. 19.03.2009.

6. The OA is disposed of accordingly with no order as to costs.

7. Before we part, it may be mentioned that the applicant remained in custody more than 48 hours. Therefore, whether it was a case of deemed suspension or suspension in a corruption case is merely a technical plea. The fact that the suspension order was passed before expiry of 48 hours, the suspension order becomes effective from the date of arrest and once the custody continued for more than 48 hours, the order of suspension will not become illegal and not liable to be set aside on this ground.


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


(Ms. Sadhna Srivastava)
Member (J)

Amit/-