

**Central Administrative Tribunal Lucknow Bench Lucknow**

**Original Application No. 282/2009**

**This the 30<sup>th</sup> day of <sup>August</sup>~~July~~, 2009**

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

A.K. Srivastava aged about 49 years, son of Late K.N. Srivastava, resident of House No. 546, Rekabganj District Faizabad.

.....Applicant.

By Advocate Sri Y.S. Lohit.

Versus

1. Council of Scientific and Industrial Research, Rafi Marg, New Delhi, through its Director General.
2. The Vice President, Council of Scientific and Industrial Research (CSIR) Rafi Marg, New Delhi/ Hon'ble the Minister for Science and Technology, Ministry of Science and Technology, Govt. of India, New Delhi.
3. Director General Council of Scientific and Industrial Research, Rafi Marg, New Delhi.
4. Central Drug Research Institute, Chatter Manzil, Lucknow through its Director.

....Respondents.

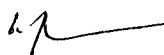
By Advocate Sri A. K. Chaturvedi.

**ORDER**

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

The applicant is claiming full salary for a period of 21.5.93 up to 30.4.96 and arrears of pension and other post retiral benefits for the period of 11.11.91 to 30.4.96 subject to adjustment of pension already paid to him.

2. At the time of hearing, the sole point for determination, as canvassed by the learned counsel for the applicant, is whether the appellate order dated 30.4.96 modifying the punishment order of removal dated 11.11.91 to that of compulsory retirement would be effective from the date of passing of the appellate order or from the date of removal itself. The operating part of the appellate order reads as follows:-



***“10. Accordingly, I modify the penalty of removal from service imposed upon Sri A.K. Srivastava, ex.Sr. Steno (Ad-hoc) by Director CDRI- the Disciplinary authority vide order dated 11.11.91 to that of compulsory retirement with full pensionary benefits.”***

It clearly states that the penalty of removal made against the applicant on 11.11.91 was modified to that of compulsory retirement. A plain reading of this order would suggest that the original order of removal was modified and, as such, the modified order would take effect from the date when the original order was passed.

3. The learned counsel for the applicant argued that the respondent authorities had passed an order on 21.5.93 placing the applicant under deemed suspension in pursuance of the judgment and order of this Tribunal dated 3.5.93 in O.A. No. 372/92. Since he was deemed to be under suspension, the final order of compulsory retirement would, by logical corollary, take effect from 30.4.96 when the appellate order was passed.

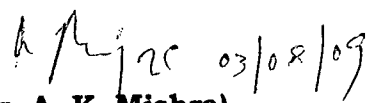
4. The learned counsel for the respondents clarified that the Hon'ble Supreme Court in a Special Leave Application filed by the respondents observed that the order of the disciplinary authority would remain valid and the appellate authority should dispose of the application on merit and in accordance with law. In view of this order of the Supreme Court, the removal of the applicant w.e.f. 11.11.91 remained intact. The deemed suspension order under Rule 10 (iv) of the CCS (CCA) Rules had to be resorted to as the order of removal of the disciplinary authority was set aside by this Tribunal in its order dated 3.5.1993. There were two options open before the disciplinary authority; either to reinstate the applicant in service or to place him under deemed



suspension. The disciplinary authority chose the latter option. When the original removal order was restored by the Supreme Court, the relevance of the deemed suspension order ceased automatically and it became infructuous. In the circumstances, there could be no other interpretation to the order of the appellate authority than its taking effect from the original date of the removal of the applicant.

5. The learned counsel for respondents also elaborated on the chequered history of this litigation which had gone to the Supreme Court many times; a fact, which is not denied by the applicant. We have carefully heard the rival contentions and find that the order of removal of the disciplinary authority was effective from 11.11.91 and it continued to remain as such until it was modified to that of compulsory retirement by the appellate order dated 30.4.96. If the interpretation of the learned counsel for the applicant is accepted the logical consequence would be that there would be a void in the service career of the applicant from 11.11.91 to 30.4.96. The correct interpretation, therefore, according to us, is that the modified order compulsory retirement took effect from 11.11.91 when the original order of removal was passed.

6. In view of the above finding, this application is dismissed as devoid of merit.

  
(Dr. A. K. Mishra)

**Member (A)**

  
(Ms. Sadhna Srivastava)

**Member (J)**

V.