

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

A-3
1

CIRCUIT BENCH

LUCKNOW

O.A. 70/90(L)

J.P. Tiwari

...Applicant.

versus

Union of India & others

...Respondents.

This Application under section 19 of the Administrative Tribunals Act, 1985 is for quashing the order dated 21.2.90 contained in Annexure A-7 whereby the petitioner/applicant was placed under suspension in contemplation of disciplinary enquiry.

2. The short case of the petitioner is that he has not yet been served either with a charge sheet or with a statement of reasons for his suspension. Dr. Dinesh Chandra, who has made appearance on behalf of respondents, admits both these facts.

3. It may be stated that when this case was taken up for admission on 2.3.90, it was noticed that on the ^{been} allegation of the petitioner having/alleged to submit false medical claims of Rs 12650, he was called upon to submit an explanation by Annexure 1 dated 12.1.90 but when he applied for an opportunity to inspect the papers in that connection, inspection had been refused on the ground that it would be allowed after the chargesheet had been served.

4. This Tribunal then directed the respondents to file short counter affidavit and also to produce the record leading to the passing of the impugned suspension order. The short counter has been filed, but the relevant record has not been produced.

2

A-2
B-2

5. The case of the respondents is that the matters regarding the petitioner's submitting false medical claims are still under investigation and some evidence has already been collected in the hope that further material is likely to come to light.

6. The learned counsel for the petitioner referred to the case of Sarni Giri vs. Union of India & others (1985(3) SLR587) decided by the Hon'ble High Court of Sikkim where it was noticed that according to the Ministry of Home Affairs Office Memo dated 9th of November, 1982, the department was required to communicate the reasons of suspension of the employee if the charge sheet could not be issued within three months of the date of suspension. The Hon'ble Court, after examining the various aspects of these provisions, held that ^{on} the failure to furnish the reasons, although required in law to be given immediately after the expiry of the prescribed period of three months, the order of suspension stood vitiated with illegality and so ^{was} liable to be quashed. As already mentioned, it is the admitted case of the parties that the charge sheet has not yet been issued and the allegations against the petitioner are still in the stage of investigation and that the reasons for suspension have not yet been communicated to the petitioner. It may be mentioned ⁱⁿ that the suspension order itself, there is no statement of any reason; the only statement made is that a disciplinary proceeding against the petitioner is contemplated. In these circumstances, we are of the opinion ^{that} the impugned suspension orders cannot be sustained.

7. It is, of course, open to the respondents to pass another suspension order if so advised in accordance

R



with law after furnishing the chargesheet to the petitioner. The impugned suspension order dated 21.2.90 (Annexure -7) is quashed in the light of the above observations.

Sirked
Adm. Member.

GH
Vice Chairman.

Dated the 26th ~~March~~ ^{June}, 1990.