

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: _____

Case Title OA NO 188/92 (U) 19

Name of Parties.

Mahendra Modi Applicant

U.O.I versus Respondents.

PART - A

<u>Sl.No.</u>	<u>Description of Documents</u>	<u>Page</u>
1-	Check List _____	<u>A</u>
2-	Order Sheet _____ <u>A1</u>	<u>A7</u>
3-	Final Judgement <u>28.5.93</u> <u>A10</u>	<u>A11</u>
4-	Petition Copy _____ <u>A12</u>	<u>A34</u>
5-	Annexure _____ <u>A35-A36 & A38-A40</u>	
5(a)	Application for Inclusion Relief with Affidavit _____ <u>A41 - A47</u>	
6-	Power _____	<u>A32</u>
7-	Counter Affidavit _____ <u>A48</u>	<u>A02</u>
7(a)	S.C.A _____ <u>A150</u>	<u>A171</u>
8-	Rejoinder Affidavit _____ <u>A83</u>	<u>A149</u>
8(a)	M.P No 114/192 & M.P No 432/93 _____ <u>A172 - A178</u>	<u>176</u>

PART - B

B179 - B398

Part - C

C399

Certified that no further action is required. The case is fit for consignment to record room. Part B/C Handled and destroyed

Section Officer
Court Officer
Incharge

Signature of Dealing Assistant.

(RN)

P. Narayan
17/01/94

A

29/4/92

7/12

CENTRAL ADMINISTRATIVE TRIBUNAL

Original Application No... 188... of 1992

APPLICANT (S) Shri. Mahendra Modi

RESPONDENT (S) U.O. (G.S.)

Particulars to be examined:

Endorsement as to result of examination

1. Is the application competent?
2. a) Is the application in the prescribed form?
- b) Is the application in paper book form?
- c) Have six complete sets of the application been filed?
3. a) Is the application in time?
- b) If not, by how many days it be beyond time?
- c) Has the sufficient cause for not making the application in time, been filed?
4. Has the document of authorisator/ Vakalatnama been filed?
5. Is the application accompanied by B.O/Postal Order for Rs. 50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application been filed?
- b) Have the documents referred to is (a) above duly attested by a Gazetted Officer and numbered accordingly?
- c) Are the documents referred to to in (a) above neatly typed.
8. Has the index of documents been filed and paging done properly?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?

Yes

NO

NO

Yes 29/4/92

Yes

Yes

Yes

Yes

Yes

Yes

NO

Contd 2

4-
C.A. NO. 138/92(L)

188/92(L)

AI

①
1-5-92

Hon. Mr. Justice V. S. Vastala, V.C.
Hon. Mr. A. B. Gorthi, A.M.

Issue notice to the respondents to
show-cause as to why the case may
not be admitted.
Office will issue a fresh notice
within 2 days.

List this case for admission
on 17-5-92.

Am.

V.C.

on
No. CA filed
8
13.5.92

OR
Notices served
on 7/5/92

18.5.92

(2)

Hon. Mr. Justice U.P. Srivastava
Hon. Mr. K. Obayya, AM.

The Counsel for the respondents prays and is allowed 4 weeks time to file counter affidavit. Rejoinder, if any, may be filed within 2 weeks thereafter. No reply has been filed by the State Government also. List this case on 6.7.92 for hearing on admission.

(mu)

A.M.

✓
V.C.

(3)

6.7.92

MU Siling of D.M. copy
18.7.92

(4)

Date: 15.7.92

Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

The counsel for the respondents Shri V.C. verma prays and is allowed 4 weeks time to file counter-affidavit, rejoinder if any, within 2 weeks thereafter. No further time ^{shall be} granted in future. No reply has been filed by the state Govt. List this case for admission/hearing on 31.7.92.

D.R.

NO. C.A. has been filed till today.

S.F.O.

8

30/7/92

CA. filed

8

30/7/92

A.M.

✓
V.C.

10.11.92

Case act. reached adj to 21.11.92

pre

case is

S. F. H.

21.11.92

8
19/11/92

Should Mr. Doherty be considered to
have been in the Obayya area

on the request of both

Palmer Court Case in adjourn

to 8.12.92

AN

✓
12

OR
CA & R. A.
filed.
S. F. H.
18
4/12/92

OR
M. P. No 1141/92
has been filed
18
18/12/92

25.1.93

Adjourn to 4.2.93

✓
MOE

OR
M. P. No 1141/92
has been filed
S. F. H.
18
18/12/92

A4

O.A. No. 188 of 1992(L)

Dated: 8.12.1992.

Hon'ble Mr. Justice U.C.Srivastava, VC

Hon'ble Mr. K. Obayya, Member (A)

The contention on behalf of the applicant is that the suspension order in this case is uncalled for and even if the suspension order was passed at earlier stage its continuation for more than 9 months is without any justification and the respondents are deliberately prolonging the suspension and they have not appointed any enquiry officer. In case, the enquiry officer would have been appointed, enquiry would have been concluded. The learned counsel contended that the Doctor's report indicates that the poison was not administered to his wife, a ground on which the entire edifice of his case has been built and this indicates that he should not have been put under suspension and even if the respondents were interested that he should not do work he could have been assigned any other duty or asked attend the office earlier. We do not express any opinion at this stage, although, the case is listed for final hearing, because in our opinion as the charge-sheet has already been served, it was the duty of the respondents to conclude the enquiry as early as possible. According to the respondents because of the demand of certain papers

Contd..2/-

✓

AS

:: 2 ::

it could not have been done, may be so, but the enquiry officer should have been appointed and the respondents are deliberately, it appears delaying the matter. The respondents are also guilty of delaying the matter. [In case, the enquiry officer is not appointed within 15 days from today and the enquiry is not concluded within four months with full co-operation of the applicant, the operation of the suspension order shall stand automatically quashed.] In case, the enquiry officer is not appointed within 15 days from today, it will be open for the applicant to approach the tribunal again for quashing of the suspension order. If the department is interested ⁱⁿ for posting of the applicant elsewhere and recalling the suspension order, our order can not ~~be~~ stand ^{in the} ~~its~~ way. List this case for final orders on 15.4.1993.

Member (A)

Vice-Chairman

Lucknow Dated: 8.12.1992.

(RKA)

Received one copy
Neel
10/12/92

C. AT Cilew. how.

OAN 188/92

(Hfto 114/92)

Mahendratadi. U.O.I. Kothan

A6

2/1/93 Present Hfto Mr. Justice U.C. Srivastava V.C.
and Hfto Mr. K. Chayya AM

Pykup as 08/1/93 for further order.

AM

V.C.

8.1.93

Case and record adj to
25.1.93

Boe

OK

SFO Hfto 114/92
Hfto

4/2/93

03/2/93

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Chayya, A.M.

Shri Kapil Dev learned counsel for
the applicants states that misc. appli-
cation vide No. 114/92 may be dismissed.
It is accordingly not ~~proposed~~ & dismissed.
List this case on 5/3/93.

B
AM

V.C.

V.C.

OK

Hfto 114/92 5.3.93

Hfto
SFO

5/3/93

Dir to Comr. Boy Gti of
Down as case adj to
11.3.93

Boe

A7

M.P. No. 432 of 93

IN

O.A. No. 188 of 92

✓
Dated: 26.4.93

Hon'ble Mr. Justice U.C.Srivastava ,VC

Hon'ble Mr. V.K. Seth, Member (A)

The learned counsel for the respondent
-s Sri V.C. Verma states that the enquiry
could not be held because the applicant
himself moved an application for deferring
the enquiry because of the pendency of the
criminal case and he has placed before us a
copy of the application said to have been
moved by the applicant on 11.12.92 and it is
desirable to wait for the decision of the
criminal case. In his application, he also
stated that no enquiry officer should be
appointed. Two weeks time is granted to
|| consider this position and apprise the tribuna
of the correct state of facts. ~~XXXXXX~~, what
has been stated by the respondents who have
placed the copy of the application moved by
the applicant himself is not correct. List
this case on 25.5.1993.


A.M.


V.C.

(rka)

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No: 188 of 1992 1993

Date of Decision 26/11/1993

Mahendra Modi Petitioner

..... Adv. for the Peti.

VERSUS
Union of India & ors.

..... Respondents

..... Adv. for the Respondents.

The Hon'ble Mr. Justice R.K.Varma, V.C.

The Hon'ble Mr. K.Obayya, Member-A

Whether Reporters of local papers may be allowed to
see the judgement.

To be referred to the Reporter or not.

Whether their lordships wish to see the fair copy of
the judgement?

Whether to be circulated to all other Benches?

RKV

Signature

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

18

Original Application No: 188 of 1992 (L)

Mahendra Modi Applicants.

Versus

Union of India & Ors. Respondents.

Hon'ble Mr. Justice R.K.Varma, V.C.

Hon'ble Mr. K.Obayya, Member-A

(By Hon'ble Mr. Justice, R.K.Varma, V.C.)

By this petition, the petitioner has sought quashing of the order of suspension dated 4.4.1992 (Annexure A-1 to the petition) whereby the petitioner was suspended pending decision to hold departmental enquiry against the petitioner.

2. An interim order was passed in this case on 8.12.1992 on the petitioner's complaint that the suspension of the petitioner has continued for more than 9 months without appointment of any enquiry officer. The relevant portion of the order, on the basis of which the arguments have been addressed is as follows:-

"but the enquiry officer should have been appointed and the respondents are deliberately, it appears, delaying the matter. The respondents are also guilty of delaying the matter. In case, the enquiry officer is not appointed within 15 days from today and the enquiry is not concluded within four months with full co-operation of the applicant, the operation of the suspension order shall stand automatically quashed. In case, the enquiry officer is not appointed within 15 days from today, it will be open for the applicant to approach the Tribunal again for quashing of the suspension order. If the department is interested in posting of

RNV

the applicant elsewhere and recalling the suspension order, our order can not stand in the way. List this case for final orders on 15.4.1993."

3. Shri Umesh Chandra, learned counsel for the applicant submitted that ^{though} the enquiry officer was appointed within 15 days from the date of the order, the enquiry was not commenced and as such the specified period of 4 months allowed for the completion of the enquiry has expired. The consequence as per direction made in the order would be that the operation of the suspension order would automatically cease, but the respondents have not given effect to this direction contained in the order of this Tribunal and are still treating the applicant as under suspension. The relief sought in the petition is for quashing the order of suspension dated 4.4.1992 received by the applicant on 18.4.1992 but the applicant gets that relief on account of failure on the part of the respondents in not concluding the enquiry within four months from the date of interim order made on 8.12.1992.

4. The learned counsel for the respondents has submitted that the enquiry was to be concluded within four months with full co-operation of the applicant as per the direction made in the interim order, but the applicant has not given full co-operation inasmuch as he requested the respondents not to proceed with enquiry and moved an application dated 17.12.1992 (M.P. 1141(P) of 1992 (L) before this Tribunal for staying the departmental disciplinary proceedings during the pendency of the criminal case against him.

ANV

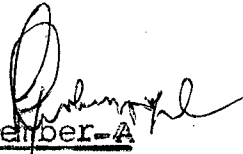
To this, the short answer by the learned counsel for the applicant is that there was no stay order by the Tribunal and as such the respondents were supposed to abide by the positive direction made in the order dated 8.12.1992 directing the respondents to complete the enquiry within four months. The question of co-operation or otherwise on the part of the applicant would have been relevant only if the respondents would have proceeded with the enquiry but they have allowed the prescribed period of 4 months to expire without holding enquiry and therefore the consequence of automatic quashing of the operation of the suspension order has become effective.

5. The learned counsel for the respondents has submitted that the order of suspension would still be operative - as it would be a case of an deemed order of suspension to have been made. We do not think that this argument has any substance. Order of suspension, whether actually made or deemed to have been made, comes to an end by operation of the order of this Tribunal and it cannot be contended that the suspension order still survives.

6. Having heard the learned counsel for the parties, we have come to the conclusion that this petition must be allowed. On a true construction of the interim order dated 8.12.1992, the operation of the suspension order made against the petitioner dated 4.4.1992 (Annexure A-1 to the petition) passed by respondent No. 1 stands automatically quashed on expiry of 4 months from the date of interim order dated 8.12.1992 since the respondents have failed to

conclude the enquiry within 4 months as directed.

This petition is accordingly allowed with no order as to cost.


Member-A


Vice-Chairman

**

Lucknow Dated: 28/5/93.

/jw/