

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: -----

Case No. OA NO. 188192 (U) 19

Name of Parties.

Mahendra Modi ----- Applicant

U.O.T ----- versus

Respondents.

PART - A

<u>Sl. No.</u>	<u>Description of Documents</u>	<u>Page</u>
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For further proceedings, see the copy of the order dated 28.5.93.

Part - C

C 399

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

Section Officer

Court Officer

Incharge

20/1/94 20/5

Signature of Dealing
Assistant.

Pranayam
17/1/94

(RN)

Central Administrative Tribunal
Circuit Bench
Date 29/4/92
File No. 715

CENTRAL ADMINISTRATIVE TRIBUNAL

Original Application No... 185... of 1992

APPLICANT (s) Shri... Mahendra Modi

RESPONDENT (s) ...U.P.T. (G.P.S.).....

Particulars to be examined:

Endorsement as to result of examination

1. Is the application competent? Yes
2. a) Is the application in the prescribed form? No
b) Is the application in paper book form? No
c) Have six complete sets of the application been filed? No
3. a) Is the application in time? Yes 29/4/92
b) If not, by how many days it be beyond time? Yes
c) Has the sufficient cause for not making the application in time, been filed? Yes
4. Has the document of authorisator/ Vakalatnama been filed? Yes
5. Is the application accompanied by B.O/Postal Order for Rs. 5/- Yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed? Yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application been filed? Yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly? Yes
c) Are the documents referred to in (a) above neatly typed? Yes
8. Has the index of documents been filed and paging done properly? Yes
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application? Yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal? No

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

188/92(L)

4-
1-5-92

AI

Hon. Mr. Justice V. S. R. Vastava, V.C.
Hon. Mr. A. B. Gorai, 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.

✓

A.M.

V.C.

SM

OR
No. CA filed

8
13.5.92

OR

Notices issued
on 7/5/92

18.5.92

(2)

Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, M.A.

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.
These of tri. No reply has
been filed by the State
Government also. List this
Case on 6.7.92 for hearing
on admission.

✓

V.C.

(u)

A.M.

(3)

6.7.92

MU Siling of D.B. Gupta

15.7.92

✓

(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 ~~is~~ shall be granted in
future. No reply has been filed by the state Govt.

D.R.

List this case for admission/hearing on 31.7.92.

N.O.C. A has been
filed till today.

A.M.

✓

S.P.O.

8

30/7/92

C.A. filed

8

30/7/92

CA 108/92 -

73

10.11.92

Case no 1, reached adj to 21.11.92

case is

S. F. H.

21.11.92

19/11/92

base

Month Mr. S. F. H. is considered to
Month Mr. K. Obayya AM

on the request of both -

Parties Consul Case is adjourned

to 8.12.92

✓

✓
AM

✓

Off
CA & RA
fixed.
S. F. H.
B
4/12/92

OR
P. No 114/1/92
has been filed
18/12/92

25.1.93

Adjourned to 4.2.93

✓
more

✓
Mr. H. H. H.
has been filed
S. F. H.
for H. H.

AU

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/-

:: 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 the} 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
Mehdi
15/12/92

CAT Case No. 188/92

OR No 188/92
(Mfno. 1141/92)

Mahendra Madi & U.C. Kothan

AG

2/1/93 Present Hon'ble Mr. Justice U.C. Srivastava V.C.
and Hon'ble Mr. K. Obayya A.M.

Put up an order for further order.
L.C.
V.C.
AM

8.1.93

Case and necessary copy to
25.1.93

Boyc

OR
SFO Mfno. 1141/92
JLW

4/2/93

03/2/93

Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, A.M.

Shri Kapil Dev learned Counsel for
the applicants states ^{that} ~~these~~ misc. applica-
tion vide No. 1141/92 ^{may be} be dismissed.
It is accordingly not ~~passed~~ & dismissed.
List this case on 5/3/93.

B
AM

L
V.C.

OR
Mfno. 1141/92 5.3.93
JLW
SFO
B
SOP/B

Dear Mr. Com. Boyelli of
Dowryless Com. and from No
11.3.93

Boyc

A7

M.P. No. 432 of 93

IN

C.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
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 tribunal
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.

W.K.
A.M.

V.C.

(rka)

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No: 188 of 1992 Date of Decision 26.1.1993

Mahendra Modi, Petitioner

..... Adv. for the Petitioner

VERSUS, Respondents

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

Other Reporters of local papers may be allowed to copy the judgment.

Is the 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?

R.K.V.
Signature

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

AB

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

RNN

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~~ 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.

ANW

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 ~~as~~ 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 contend 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

R. K. Varma
Vice-Chairman

Lucknow Dated: 28/5/93.

/jw/