

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

Original Application No. 45 of 1996

Date of Order : 26 October, 1999

P.C. Priyadarshi, aged 45 years, resident of Daldari Road, Danapur Cantt. Patna, Bihar, posted as District Savings Officer, (U/S) in the office of the Dy. Regional Director National Savings (G.O.I.), 10 RRDA Shopping Centre, Ranchi.

.... Applicant.

Vrs.

1. Secretary to the Govt. of India, Ministry of Finance, New Delhi.
2. National Savings Commissioner, N.S.O. Ministry of Finance (FOI) 12, Seminary Hills, Nagpur-1.
3. Dy. National Savings Commissioner, NSO, Ministry of Finance (GOI) 12, Seminary Hills, Nagpur-1.

.... Respondents.

Counsel for the applicant : In person. (Applicant)

Counsel for the respondents : D. K. Jha, ASC

C O R A M

Hon'ble Shri L.R. K. Prasad, Member (Administrative)

Hon'ble Shri Lakshman Jha, Member (Judicial)

O R D E R

Hon'ble Shri L.R. K. Prasad, Member (Admn.) :-

✓ This application was filed in December, 1995. In addition to this, M.A. 128/96 and 135/96 have also been filed which have already been disposed of.

2. This application has been filed seeking following reliefs :-

- (i) The Respondents be directed to revoke the orders of suspension and pay to the applicant full pay and admissible allowances for the period of suspension;
- (ii) The respondents be directed to put the applicant back to his post at Ranchi or any other place.
- (iii) In the alternative, the respondents be directed to revise subsistence allowance of the applicant by more than 75 per cent during subsequent periodical review;
- (iv) The Respondents should be directed to pay to the applicant annual increment, which has fallen due in April, 1995 alongwith arrear.
- (v) Cost of litigation.

3. The applicant was appointed as District Saving Officer (D.S.O.) vide order dated 2.5.1977 as at Annexure-A/1. While working as D.S.O., at Ranchi in the Bihar Region, the applicant was put under suspension vide order dated 8.3.1995 (Annexure-2), on the ground that a case against him in respect of Criminal Offence for acceptance of bribe is under investigation/inquiry. It is further stated in the said order that the applicant during operation of suspension order, shall remain at Ranchi and he shall not leave the Hqrs. without obtaining the previous permission from the competent authority. The applicant had filed an O.A. No. 582/95, on which, this Tribunal had directed on 16.10.1995, the Secretary, Ministry of Finance, Govt. of India to



dispose of the representation of the applicant relating to enhancement of subsistence allowance in accordance with law within a period of three months from the date of receipt of a copy of the said order. It was also directed that there should be periodic review of the subsistence allowance in accordance with rules.

From the communication dated 20th November, 1995

(Annexure-A/4), and order dated 31st July, 1995 (Annexure-A/6), it appears that the subsistence allowance of the applicant was increased from 50% to 60% with immediate effect. Vide order dated 20th November, 1995, the subsistence allowance was increased from 60% to 70% (vide Annexure-A/4). It is noted from the order No. 18539-545/Vig/2(3)95 dated 23.10.1997 that the suspension order in respect of the applicant was revoked with immediate effect. On revocation of his suspension order, the applicant was posted as District Savings Officer at Patna.

4. The applicant has alleged that he was put under suspension by Deputy National Savings Commissioner, Nagpur (Respondent No. 3), vide order as at Annexure-A/2.


As he was appointed by the Respondent No. 2, Respondent No. 3 is not the competent authority to order the suspension of the applicant. In reply, the respondents have submitted that as per Rule 10 of CCS (CCA) Rules, 1965, the Deputy National Savings Commissioner is competent to issue suspension order. The subsistence allowance of the applicant has been reviewed periodically. It has been raised from 50% to 75%. It appears that the annual increment of the applicant has also been granted

as per the direction of this Tribunal passed in
M. A. 128/96.

5. The applicant had made a prayer to the respondents concerned for payment of full salary for the period 7.3.1995 to 22.10.1997 (Suspension Period). The applicant has stated that neither in order of suspension nor in order of revocation of suspension, the respondents have mentioned about the treatment of the period of suspension for regulating the pay and allowances of the applicant. The applicant has drawn our attention to FR 54 in this regard. Vide Letter No. 1786-87/Vig/2(3)95 dated 12th February, 1998, the applicant was informed that after finalisation of criminal case filed by the C. B. I., which is still pending, necessary order would be passed regarding treatment of his suspension period. In that view of the matter, the applicant is not entitled to receive full salary for the suspension period till the finalisation of the case.

6. We have heard the learned counsel for the parties and perused the materials on record. It is admitted fact that the applicant was put under suspension vide order dated 8th March, 1995 (Annexure-A/2) on the ground that a case against the applicant in respect of criminal offence for acceptance of bribe is under investigation/inquiry at Ranchi. The said criminal case relates to alleged accepting of bribe by the applicant who is stated to have been caught raid handed by C. B. I. However, the suspension order was revoked vide order



dated 23rd October, 1997 as referred to above and on revocation of suspension order, the applicant was posted as District Savings Officer at Patna. The suspension order and revocation of suspension order do not mention anything about the treatment of the period of suspension. It is, however, noted that the applicant had made a representation to the respondents concerned for payment of full salary for the suspension period (7.3.1995 - 22.3.1997). In reply, the applicant was informed that he is not entitled to receive full salary for suspension period till the finalisation of the criminal case, which is still pending against him. After finalisation of the criminal case, necessary order regarding treatment of suspension period will be decided. The applicant has already been granted 75% of subsistence allowance. As the suspension order has already been revoked, he must be getting his full salary now.

7. From the above analysis of the case, it appears that the prayer of the applicant regarding revocation of suspension ^{order} has become infructuous, as he has already been reinstated in service vide order dated 23.10.1997 as referred to above. As he has already been posted at Patna, his prayer regarding posting as contained at para 8(ii) of the O.A. also becomes infructuous. He has already been paid 75% of the subsistence allowance. Regarding order on the balance amount, the Respondents have already informed him that the same shall be decided on finalisation of above mentioned criminal case pending against him. The applicant's prayer for annual increment also appears to have been settled. During the course of

hearing, this position was confirmed by the parties. While clarifying the position, the applicant stated that his only prayer now is with regard to payment of full salary with consequential benefits (for) the period of suspension. During the course of argument, it transpires) that apart from criminal case, no disciplinary proceeding was started against the applicant.

8. We have taken note of FR 53 and FR 54. According to the FR 53, a Govt. servant under suspension or deemed to have been placed under suspension shall be entitled to payment of subsistence allowance at an amount equal to the leave salary which the Govt. servant would have drawn, if he had been on leave on half average pay or on half-pay and in addition, D.A., if admissible on the basis of such leave salary. If the suspension of period exceeds three months, the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50% of the subsistence allowance admissible during the period of first three months.

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There is a provision for periodical review of Suspension and the subsistence allowance. FR 54 provides that when a Govt. servant who has been dismissed, removed or compulsorily retired is reinstated as a result of appeal or review or would have been so reinstated but for his retirement on superannuation while under suspension or not, the authority competent to order reinstatement shall consider and make a specific order regarding pay and allowances to be paid to Govt. servant for the period of his absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement as the case may be; and whether or not the said period shall be treated as a period of spent on duty.

The FR. 54 prescribes details regarding reinstatement in service and the consequence order to be passed by the competent authority. It may be stated that the suspension has been linked up with removal, dismissal or compulsory retirement from service. In such a situation, a specific order is required to be passed with regard to treatment of the period of person concerned absence from duty including the period of suspension preceding his dismissal removal or compulsory retirement as the case may be.

9. In the instant case, it is observed that the applicant was caught raid handed by C.B.I., while allegedly accepting bribe, and the said criminal case filed by the CBI against the applicant is still pending. The applicant has already been informed by the Respondents vide letter dated 12th February, 1998 that necessary order regarding treatment of his suspension period will be decided after finalisation of the criminal case. So, the matter is still open and the competent authority would take a decision in this regard on finalisation of the criminal case pending against the applicant. The Respondents are competent to decide the matter relating to determining the status of the applicant during suspension period specially on the point whether such period is to be treated as on duty or not. The question of release of balance amount of salary plus admissible amount relating to period of suspension will largely depend on the decision of the competent authority on the aforesaid point.

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10. We have considered the entire matter in the light of the submissions made by the parties and materials on record. It is noted that basic reliefs relating to revocation of suspension order, grant of annual increment etc. have already been granted to the applicant as referred to in para 7 above. In view of the facts and circumstances of the case as stated above, there is hardly anything left for adjudication at this stage on the question of payment of full salary and allowances to the applicant during suspension period. This O.A. is accordingly disposed of in the light of above circumstances. No order as to costs.

MPS.

L.R.K.P.
(Lakshman Jha)
Member (Judicial)

26/10/99
(L.R.K. Prasad)
Member (Admn.)