

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PATNA BENCH : PATNA.

Registration No. OA - 305/96

Date of order : 10.07.1996

Arvind Kumar Applicant

Versus

Union of India & Ors. Respondents.

Counsel for the applicant : In person

Counsel for the respondents: Shri B.N. Yadav, Standing
Counsel for State of Bihar

CORAM : Hon'ble Shri N.K. Verma, Member (A)

ORDER

Hon'ble Shri N.K. Verma, Member (A) :-

Heard Shri Arvind Kumar, the applicant who appears in person in relation to question of admission of this case as well as interim relief. The applicant stands suspended vide Annexure-1 which says that on the basis of prima facie evidence on allegation of departmental irregularities, financial indiscipline and defalcation of Government money and other related acts of Commission and commission on the part of the applicant is suspended under All India Service and Discipline Rule No. 3 of 1969 vide order dated 20th June, 1996. The applicant immediately thereafter moved

this Tribunal with an application for quashing the notification dated 20th June, 1996 regarding his suspension and as an interim measure he prayed for staying the operation of the suspension order dated 20.6.1996 and a direction to the respondents to allow the applicant to continue on the post held by him earlier. Thus, as a matter of fact, the main relief and the interim relief prayed for by the applicant are the same i.e. quashing of the suspension order or staying the operation of the suspension order dated 20.6.96. The respondents, the State of Bihar and other departmental respondents were given opportunities to file their reply and they have done so vide two separate written statements.

2. The applicant who appeared in person very assiduously and vehemently stated that the suspension order passed against him is motivated by mala fide on the part of the respondent No. 5 who was his controlling officer as also other respondents like Secretary, Forest Department, Principal Chief Conservator and Regional Chief Conservator of Forest. He drew my attention to the fact that he was suspended on earlier occasion also. He had approached the Tribunal and at that point of time, the Tribunal had quashed the suspension order against which the Hon'ble Supreme Court was approached through SLP by the Government of Bihar.

The said SLP was dismissed on 11.3.96 with a direction to the State of Bihar to take any disciplinary action or initiate inquiry against the applicant on any charge in accordance with law. The State of Bihar and other respondents have now implicated the applicant in a similar kind of financial irregularity and defalcation and have placed him under suspension on the basis of the so called *prima facie* charges proved by them through preliminary inquiry made. He faulted the suspension order on the ground that satisfaction of disciplinary authority was not evident from the suspension order passed on him and it is totally arbitrary and ultravires. He, therefore, prays that the interim order be passed in his favour.

3. Shri B.N. Yadav, the learned counsel for the respondents, State of Bihar brought to my notice that the suspension order has been passed on the basis of the preliminary inquiry conducted in regard to several cases of indiscipline and irregularities committed by the applicant. He further brought to my notice that a complaint was made by the respondent No. 5, the Conservator of Forest through a letter dated 30.3.96 in which the Conservator of Forest had reported that the applicant had abused in the filthiest language and insulted him. Other allegations and complaints against him also forced the Government to issue suspension

order on the applicant and they have followed up the order by issue of charge-sheet on him on 27.6.96.

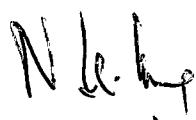
4. I have given a very detailed and careful consideration to all the averments and arguments made by both the parties. Admittedly, suspension is not a punishment and it does not require show cause notice on the suspended official before such an order is passed. Any disciplinary authority or authority authorised to suspend an officer has to act by certain guidelines for suspending any officer or employee of Govt. of India or the State Govt. under whom the Government of India officer is deputed to work. The subjective satisfaction of disciplinary authority is implied whenever suspension order is passed and it is not necessarily to be indicated in the suspension order. The applicant has not been able to show any provision under the rule by which the suspension order must indicate the subjective satisfaction of suspending officer. The suspension order can be issued by the competent authority when the disciplinary action is contemplated, initiated or is in process. The main ground canvassed by the applicant for quashing the suspension order is the lack of subjective satisfaction of the competent authority in issuing the suspension order. This ground is not acceptable to me and therefore negatived.

I find that the suspension order passed on 20th June, 1996 does not suffer from any infirmity as alleged by the applicant. Therefore, the question of any interim order being passed staying the operation of the suspension order does not arise in this case. I would like to refer to a catena of Hon'ble Supreme Court's Judgement wherein the Tribunals and the High Courts have been directed not to interfere with any disciplinary case when the same case is being processed. The latest one of catena of Judgements delivered in the case of Union of India vs. Ashok Kacker, reported in 1995 SCC (Laws) page 374. In para 4 of that judgement, their Lordship have held that " in our opinion, this was not the stage at which the Tribunal ought to have entertained such an application for quashing the charge-sheet and the appropriate course for the respondent to adopt is to file his reply to the charge-sheet and invite the decision of the disciplinary authority! If the applicant finds that the charge-sheet is illegal, fabricated and frivolous and also repetition of the same charges for which he was suspended earlier, he should file reply to them and get himself exonerated of the charges as per All India Service Discipline and Appeal Rules, 1969

5. The case is grossly premature at this

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stage. The applicant has not exhausted the departmental remedies available to him. Such a tendency on the part of the Govt. official is not understandable and not acceptable. It is not a fit case for admission and is dismissed at the admission stage itself.


(N.K. Verma)
Member (A)

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