

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

Date of Order 5.3.97.

RA No. 52/96 in
OA 235/96.

Sylvester Kullu, IAS,
Late Paulas Kullu at present
under suspension, resident of
village - Parhi, P.O. Kumhari,
P.S. Bassia, Distt. Gumla.

...Applicant.

Vs.

1. State of Bihar through Chief Secretary,
Govt. of Bihar.
2. Commissioner-cum-Secretary,
Personnel and Amn. Reforms Deptt.,
Govt. of Bihar.
3. Union of India through Secretary,
Ministry of Personnel, Public Grievances
and Pension, New Delhi.

...Respondents.

O R D E R

(Hon'ble Mr. N.K. Verma, Member (A))

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This is a Review Application filed by the applicant against the order passed by me at Patna Bench of the Tribunal in OA No. 235 of 1996 whereby the suspension of the applicant was declared to be invalid beyond 45 days as per reading of Rule 3 of the All India Services (Discipline and Appeal) Rules, 1969.

As per the Central Administrative Tribunal (Procedure) Rules, the R.A. should have been filed within 30 days of the receipt of the order by the applicant. However, the R.A. was filed on 7.10.96 alongwith MA for condonation of delay and has been received through Registry of the Chandigarh Bench.

2. The learned counsel for the applicant had appeared before me in person in Chandigarh Bench on

17.12.96. The learned counsel had brought to my notice the error apparent on the face of the record wherein order was passed quashing the suspension order on the expiry of 45 days of suspension of the applicant. Pursuant to that hearing given to the learned counsel for the applicant the Registry of the Patna Bench was directed to send the R.A. by Speed Post if the same had not been despatched by the ordinary post so far. The RA was received from the Patna Bench **subsequently**.

However, it is seen that the RA and MA 268 of 1996 for condonation of delay both were sent by the Registry of the Patna Bench on 5.12.96 itself which was not received here for quite sometime for reasons not explained.

3. I have gone through the MA for condonation of delay in filing the RA as also the RA. The ground set by the applicant in MA for condonation of delay in filing the RA is due to hospitalisation and prolonged medical treatment upto 30.9.96 and is found acceptable. He filed the RA on 7.10.96 which was found to be having some defects and only after the same had been removed on 21.11.96 that this MA and the RA were sent to me as mentioned above.

4. The learned counsel for the applicant at the time when the matter was heard had not brought to my notice that the suspension order having been rendered invalid would actually lead to the conclusion that the suspension was invalid ab initio and, therefore, should be treated as nonest in the eyes of law. The learned counsel for the applicant had canvassed this before me on 17.12.96. The learned counsel, therefore, prayed that the order passed may be modified to take into account this

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situation. The learned counsel for the respondents in the OA has been served with a copy of this RA against which no reply has been filed by them.

5. Viewed in the totality of the circumstances, I find the arguments and the submissions of the learned counsel for the applicant dated 17.12.96 to be acceptable.

In terms of Rule 3(1) of the All India Services (Discipline and Appeal) Rules, 1969. the impugned order was rendered invalid and hence quashed with effect from the date the order of suspension was passed on the applicant. The suspension is accordingly declared to be nonest in the eyes of law. Accordingly, the order passed in the OA is modified as under:-

"In paragraph 4, as per the reading of the Rule 3(1) of All India Services (Discipline & Appeal) Rules, 1969, the suspension order has rendered itself invalid when no orders were passed by the Central Govt. confirming the same. It is hereby directed that the suspension order passed on the applicant is quashed from the date it was issued on him and will be treated as nonest in the eyes of law. Accordingly, the applicant shall be treated as on duty for the period he remained under suspension and shall be entitled to all the consequential benefits as per relevant rules."

RA is accordingly allowed and orders passed as above.


(N.K. VERMA)
MEMBER (A)

"MS"