

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

O.A.No. 375 of 198 7
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DATE OF DECISION _____

Shri Nishikant K. Bhatakar Applicant/s.

Shri M.M. Sudame Advocate for the Applicant/s.

Versus

The Deputy Accountant Respondent/s.
General (Accounts) & Others.

Shri S.R. Atre Advocate for the Respondent(s).

CORAM:

The Hon'ble the Vice-Chairman Shri K.S. Puttaswamy
The Hon'ble Member(A) Shri L.H.A. Rego.

1. Whether Reporters of local newspapers may be allowed to see the Judgment?
2. To be referred to the Reporter or not ?
3. Whether to be circulated to all Benches?

(4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.375 of 1987

Shri Nishikant K. Bhatalkar,
Kishor Nagar, Borkar's Building,
Amravati-444 606.

... Applicant.

V/s.

1. The Deputy Accountant General(Accounts),
Office of the Accountant General-II,
(A&B), Maharashtra,
Nagpur.
2. Union of India,
through Accountant General-II(A&E),
Maharashtra,
Nagpur.
3. Shri S.Seshadri, Accounts Officer,
Office of the Accountant General(A/cs),
Maharashtra,
Nagpur.

... Respondents.

Coram: Hon'ble the Vice-Chairman, Mr.K.S.Puttaswamy.
Hon'ble Member(A) Mr. L.H.A. Rego

Appearance:

1. Shri M.M.Sudame,
Advocate for the
applicant.
2. Shri S.R.Atre,
Advocate for the
Respondents.


JUDGMENT:-

Dated: 13.7.1987.

With the leave granted by this Tribunal Sri M.M.Sudame, learned counsel for the applicant had impleaded one Sri S.Seshadri who is the Inquiry Officer as respondent-3. Sri S.R.Atre who is representing respondents 1 and 2 also takes notice for him and represents him also.

2. This is an application made by the applicant Under Section 19 of the Administrative Tribunals Act, 1985('the Act')

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3. Prior to 21.4.1984 the applicant an employee in the office of the Accountant General, Maharashtra, had been posted as a Divisional Accountant to the Office of the Executive Engineer, Water Resources Division, Amravati, Maharashtra State. On 21.4.1984 the Senior Deputy Accountant General (Accounts and Entitlement) Maharashtra (SDAG) placed the applicant under suspension pending contemplated disciplinary proceedings against him under the Central Civil Services (Classification Control and Appeal) Rules, 1965 ('Rules'). On 26.6.1984 SDAG had served the articles of charge on the applicant. On 1.9.1984 SDAG had appointed one Sri Seshadri, Accounts Officer working in the office of the Accountant General, Maharashtra, Respondent No.3 as the Inquiry Officer(IO) to hold a regular inquiry against the applicant and submit his report. But on 19.3.1987 the IO had indefinitely adjourned the inquiry on the ground that the original documents material for a decision, had not been produced before him. Even after that the applicant made more than one representation for revocation of the suspension made against him which was not considered and allowed by the authorities. Hence on 5.6.1987, the applicant has approached this Tribunal for quashing the order of suspension and for payment of all consequential benefits flowing from the same.

4. Sri M.M.Sudame, learned counsel for the applicant contends that when the Inquiry Officer, had indefinitely postponed the inquiry for reasons beyond the control of his client and with the due regard to the nature of the charges levelled against the applicant which did not involve any moral turpitude, it is a fit case in which this Tribunal should quash the order of suspension and direct his

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reinstatement to service with all consequential benefits.

5. Sri S.R.Atre, who sought to support the order of suspension, had also produced all the relevant records for our perusal.

6. After more than one adjournement the inquiry was fixed before the IO on 19.3.1987. On that day the IO noticing the events that took place earlier and on that day directed thus:-

" Even though more than 2½ years has elapsed, no original documents has so far been led as evidence nor commitment has been made when the same will be made available. Without these original documents neither the Accused Govt. Servant can defend himself properly nor the Enquiry Officer can reach a correct conclusion. Any conclusion drawn on the basis of the records which can now be made available by the Presenting Officer will vitiate the enquiry itself. There is therefore no scope for proceeding in the case any further. If the original documents cannot be made available there is no other alternative but to consider the closure of the case. The case is therefore returned. The hearing is adjourned to 4.00 p.m. for confirmation of morning's proceedings."

In pursuance of this order, the IO had not proceeded with the inquiry and had not completed the same. If this order stands, there is no immediate prospect of the IO completing the inquiry against the applicant.

7. We will even assume that one or the other authority did not co-operate in producing the relevant records before the IO. But, that fact cannot and does not prevent the IO to compel the production of the documents, records the evidence to be placed by the department and by the delinquent complete the inquiry and submit his report to the Disciplinary Authority. We are of the view that what had been done by the IO on 19.3.1987 was contrary to the rules and illegal.

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(7)


We must, therefore, direct the IO to restore the inquiry proceedings to his file, proceed with the inquiry by compelling the production of the documents before him in accordance with the law regulating the same, then complete the inquiry and submit his report to the Disciplinary Authority.

8. We have earlier noticed that the applicant was placed under suspension as early as on 21.4.1984. The inquiry records do not show that the applicant was deliberately nor ~~cooperating~~ in the completion of the proceedings before the Inquiry Officer. Sri Sudame is right in his submission that the charges framed against the applicant do not involve any moral turpitude. We have also noticed that the proceedings before the Inquiry Officer had been delayed by somewhat inapt procedure adopted by him. In these circumstances we consider it proper to direct the Disciplinary Authority to examine the case of the applicant for revocation of his suspension in the first instance. We do hope and trust that the disciplinary authority will objectively consider the case of the applicant for revocation of his suspension and pass a fair and just order. We also consider it proper to direct the Disciplinary Authority to examine the case of the applicant for revocation with expedition and in any event within a period of 45 days from the date of receipt of this order.

9. In the light of our above discussion, we make the following orders and directions:-

- (a) We direct the Deputy Accountant General (Accounts)- Respondent No.1 to consider for revocation of the suspension of the applicant with all such expedition as is possible in the circumstances of the case and in any event within a period of 45 days from the date of receipt of this order.

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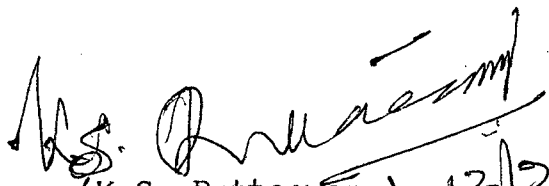


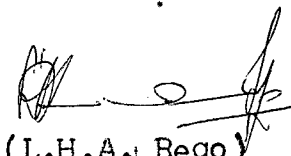
(8)

- (b) We direct Respondent No.3 to restore the inquiry proceedings instituted against the applicant to his original file, proceed with the inquiry and complete the same with all such expedition as is possible in the circumstances of the case and then submit his report to the Disciplinary Authority in accordance with law.

10. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

11. Let this order be communicated to the Respondents within 10 days from this day.


(K.S. Puttaswamy) 13/7/87
Vice-Chairman


(L.H.A. Rego) 13-7-87
Member(A)