

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: MUMBAI

CAMP AT AURANGABAD

ORIGINAL APPLICATION NO.357/2001

TUESDAY, THE SEVENTH DAY OF AUGUST, 2001

CORAM:

SHRI JUSTICE BIRENDRA DIKSHIT. VICE CHAIRMAN
SHRI M.P. SINGH. MEMBER (A)

Shri M. Kumar @
Mohanbhai Shankarbhai Turi,
Age 52 years, working as
Senior Superintendent of Post Offices,
Aurangabad Postal Division (under
suspension) Residing at Samatnagar, Near
Nutan Colony, Aurangabad-431001. ... Applicant

By Advocate Shri S.P. Kulkarni.

Vs.

1. Assistant Director General (Vigilance)
Office of the Director General Posts,
Department of Posts,
Ministry of Communications,
Govt. of India, Dak Bhavan,
Sansad Marg P.O.
New Delhi-110 001.
2. Post Master General,
Aurangabad Region
At P.O. Aurangabad-431 002.
3. Union of India (through)
Secretary, Department of Posts,
Ministry of Communications,
Govt. of India, Sanchar Bhawan,
20, Ashoka Road, P.O.
New delhi-110 001.

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4. Director of Accounts (Postal),
At P.O. Nagpur-440 001.
5. Union Public Service Commission,
Dholpur House, Shajahan Road,
New Delhi-110 001. ... Respondents

By Advocate Shri V.S. Masurkar.

ORDER (ORAL)

Shri Justice Birendra Dikshit. Vice Chairman

This application is regarding quashing of order whereby suspension of applicant has been continued despite his acquittance in criminal case due to which he was suspended.. The suspension order was originally passed on 17.11.1989 ^{due to} and registration of a criminal case under Section 420, 468 and 471 of Indian Penal Code in criminal case No. 2780/88 in the court of Chief Metropolitan Magistrate, Ahmedabad. The case was decided on 21.3.95 which resulted in acquittal of the applicant. The State of Gujarat has preferred an appeal against the acquittal, which has been admitted on 3.2.97 by Gujarat High Court and is numbered as Criminal Appeal No.737/95. The grievance of applicant is that despite his acquittal and there being no interim order in appeal, the respondents have not revoked his suspension though he has been repeatedly making representations.

2. The learned counsel for applicant has argued that the applicant had been making representations, but the respondents have failed to revoke the suspension and despite knowledge of this OA in which

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applicant has challenged the continuation of suspension order, The basis of order of continuance of suspension ^{being} ~~is~~ applicant's involvement as accused in a criminal case. Learned counsel for the respondents opposed the application and contended that an appeal has been preferred before Gujarat High Court against the acquittal of applicant and as the appeal arises out of charges in respect of financial matter, the suspension is not liable to be revoked during pendency of criminal appeal and the Tribunal may not ^{by this} ~~interfere~~ ^{by this} ~~in this~~ Tribunal is required in such a matter. He has further argued that on representation of the applicant, the matter has been considered by Hon'ble President of India, who is appointing authority of applicant. He contended that Hon'ble President has ordered after due consideration of all aspects, the continuance of suspension during pendency of criminal appeal.

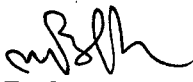
3. We have examined arguments and perused the record. The main grievance of applicant is that despite his representation, the revocation of suspension has not been ordered. The argument is, devoid of any merit. Under Rule 10 (1) (b) of the CCS (CCA) Rules, the appointing authority has the power to suspend an officer where the officer is facing criminal trial. Due to filing of appeal, the trial has not come to an end. ^{lo} The appeal is continuance of trial for the purpose of said rule. It is in the discretion of appointing authority, ^{lo} if he feels after examining the circumstances that the continuance of suspension

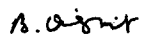
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of an officer despite acquittal be continued during pendency of appeal, then he can continue the same under ^{said} such rule. There appears no illegality in continuance of suspension. Unless there is some illegality in continuing suspension this Tribunal is not supposed to interfere in the discretion of appointing authority as nothing has been brought to our notice during arguments, due to which the order of continuance of suspension could be said to be bad in law. The Criminal Appeal has been admitted by the High Court and therefore, the continuance of suspension of applicant is a matter well within the scope of power of appointing authority.

4. Faced with this situation, the learned counsel for the applicant contended that the applicant be allowed to move fresh representation for revocation of suspension order. It is always open to suspended officer to move for review of order of suspension by making representation and it is for the appointing authority to consider whether suspension be revoked or not, after considering the stand taken by the officer before him. No direction is required from us for such consideration.

5. For the aforesaid reasons, the OA is devoid of merit and is accordingly dismissed. No order as to costs.


(M.P. SINGH)
MEMBER (A)


(BIRENDRA DIKSHIT)
VICE CHAIRMAN

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