

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

T.A. No. 684/86

Date of Decision: 24.11.92

A.K. BANERJEE

: Applicant.

VERSUS

UNION OF INDIA & ORS

: Respondents.

Mr. U.D. Sharma

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. B.B. Mahajan, Administrative Member

PER HON'BLE MR. B.B. MAHAJAN, ADMINISTRATIVE MEMBER:

A.K. Banerjee had filed a writ petition in the High Court of Judicature for Rajasthan, Jaipur praying that the orders dated 4.9.84, by which it was decided that he would be entitled to only subsistence allowance for the period of his suspension and that period will not be treated as period spent on duty, and the order of the Appellate Authority dated 15.11.84 rejecting the appeal against this being time-barred, be quashed.

2. The applicant had been suspended vide order dated 12.5.84. The order of suspension was revoked on 23.5.84. By the impugned order dated 4.9.84 it was ordered that this period of 11 days under suspension will not be treated as period spent on duty and he will be entitled to only the subsistence allowance for this period. The applicant had submitted an appeal against this order on 1.10.84 which had been rejected by the Appellate Authority by the impugned order dated 15.11.84 on the ground that the appeal had been filed after a period of 4 months against the prescribed period of 45 days and the applicant has not given any reason for late submission of the appeal. It is also mentioned in the O.A. that an order of 'Censure' was passed on the applicant on 29.8.84.

3. None is present on behalf of the applicant.

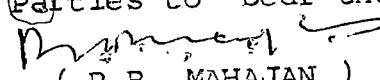
4. We have heard the learned counsel for the respondents and perused the record.


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5. The respondents have stated that the impugned order dated 4.9.84 (Annexure 3) had been passed under FR-54 (B) (1). This rule, no doubt, provides for an authority to <sup>The competent authority</sup> pass the order regarding pay and allowances during the period of suspension and whether the same will be treated as period spent on duty or not. The impugned order is vague as it does not specifically say as to what pay and allowances the applicant would be entitled for the period of suspension and only says that he will be entitled to the subsistence allowances which, in any case, he was entitled under FR-53. Further no reasons have been given dis-allowing the pay and allowances during this period of suspension and not treating the period of suspension as period spent on duty. Since this order would have penal consequences for the applicant it was necessary to indicate the reasons for the same. No reasons have been given even in the reply submitted by the respondents. Moreover, in accordance with the Government of India's O.M. dated 3.12.85 published as Administrative Instruction No. 3 below FR-54 (B) in Swamy's Compilation of FR/SR, Part I (10th Edn.) where departmental proceedings against a suspended employee finally ends with the imposition of minor penalty the suspension can be said to be wholly unjustified in terms of FR-54 (B) and the employee concerned should be paid full pay and allowances for the period of suspension by passing a suitable order under FR-54 (B). In case full pay and allowances for this period are paid, the same will ordinarily be treated as period spent on duty.

6. In view of the above, we allow the T.A., set aside the impugned orders dated 4.9.84 and 15.11.84 and direct that the applicant shall be paid full pay and allowances for the period of suspension and the period under suspension shall also be treated as period spent on duty for all purposes and consequently the date of increment of the applicant which had been postponed by 11 days will also be restored to its original date. The arrears on this account shall be paid to the applicant within 4 months of this order.

Parties to bear their own costs.

  
( B.B. MAHAJAN )  
Administrative Member

  
( D.L. MEHTA )  
Vice-Chairman