

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHIO.A. No. 815/89 198
T.A.-No.

DATE OF DECISION 10 APRIL, 1992

Sri Syed Ghouse Petitioner

Sri K. Sudhakar Reddy Advocate for the Petitioner(s)

Versus

General Manager, India Govt. Mir Respondent

Hyderabad
Sri NV Ramana Addl. CGSC Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.S. HABEEB MOHAMED, MEMBER (ADMN)

The Hon'ble Mr. T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

1. Whether Reporters of local papers may be allowed to see the Judgement? *No*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

MGIPRRND-12 CAT/86-3-12-86-15,000

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M(A)T-C.R
(HTCR)
M(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.815/89

DATE OF JUDGEMENT: 10 APRIL, 1992

BETWEEN

Sri Syed Ghouse

... Applicant

A N D

General Manager,
India Government Mint,
HYDERABAD

.. Respondent

Counsel for the Applicant : Sri K.Sudhaker Reddy

Counsel for the Respondents : Sri NV Ramana, Addl.CGSC

CORAM:

THE HON'BLE SHRI P.S. HABEEB MOHAMED, MEMBER (ADMN)

THE HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUDL.)

T. C. S. f

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JUDGEMENT OF THE DIVISION BENCH DELIVERED BY THE
HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER(JUDL.)

This is an application filed by the applicant herein under Section 19 of the Administrative Tribunals Act, to direct the respondents to pay the salary of the applicant for the period from 8.7.1988 to 22.9.1988 after ~~granting~~ ~~earned~~ leave for the said period.

The facts giving rise to this OA in brief may be stated as follows:

1. The applicant was placed under suspension from 8.7.1988 to 22.9.1988 as a Departmental Enquiry was contemplated against him. Afterwards, the applicant was served with a charge Memo No.I-244/88/I/Admn/2479 dated 28.7.1988. The applicant denied the charges levelled against him vide his representation dated 26.8.1988. An officer was appointed by the Disciplinary Authority to inquire into the charges levelled against the applicant. The said inquiry is still pending as against the applicant. It is the case of the applicant that he is liable to be paid salary for the suspension period from 8.7.1988 to 22.9.1988 after treating the said period as Earned Leave. The respondents ~~negatived~~ negatived the applicant's request to pay him the salary and allowances treating the said period as EL. Hence, the present application by the applicant is filed for the relief indicated above.

2. Counter is filed by the respondents opposing this OA.

T. C. Reddy

3. The fact that the Competent Authority has powers to place a Government servant under suspension when disciplinary proceeding is contemplated against him is not in dispute. As a matter of fact, the disciplinary proceedings have been initiated against the applicant and a regular Inquiry Officer is appointed and the said Inquiry is still pending.

4. A combined reading of FR53 and FR 54 would make it clear where final orders are passed by the disciplinary authority either punishing the government servant or exonerating him from the charges levelled against him. The said authority must also determine how the period of suspension is to be treated and to what emoluments, the Govt. servant concerned, who had been kept under suspension is entitled for the suspension period after giving an opportunity of being heard. So, that being the position, we are unable to understand how it is open for the applicant to treat the said period of suspension as Earned Leave by him and ~~not~~ pay him all emoluments. In view of the said position, this OA is liable to be dismissed.

5. The learned counsel appearing for the applicant to support his contention that the applicant is entitled for pay and allowances for the suspension period, relied on the decision reported in 1988(1) ATLT (CAT)673 - Umesh Chandra Vidyarthi (Applicant) vs Union of India and another (Respondents). We have gone through the said decision. In the said decision, the facts would go to show that the applicant therein was involved in a criminal case and so the said applicant was kept under suspension and subsequently the said prosecution was quashed. ^{also} Departmental proceedings were initiated against the said applicant. But, when the Departmental inquiry was

pending, no suspension order was passed as against the said applicant. At page 676, para 11 of the said judgement, it is observed as follows:

"In view of the above facts, we feel that when the suspension order was passed merely on the ground of the prosecution of the applicant and when the prosecution was quashed by the learned Additional Sessions Judge, the applicant deserves to be paid all his pay and allowances for the period of suspension by treating all that period to be on duty. We may point out that the respondents have not thought it proper to place the applicant under suspension again and that must be because the alledged charges are not so serious."....."

So, in view of the above facts, namely, as Departmental inquiry was pending against the applicant therein, and the said applicant was kept under suspension during the pendency of criminal proceedings and subsequently, the said criminal proceedings were quashed, the Bombay Bench felt it proper to award full pay and allowances for the suspension period. But, the facts in this case are entirely different. The applicant herein had been kept under suspension when a Departmental inquiry was contemplated against him and as already pointed out, the departmental inquiry is still pending as against the present applicant. The present applicant has to wait for the final outcome of the departmental proceedings for passing appropriate orders whether the suspension period has to be treated as duty period or otherwise.

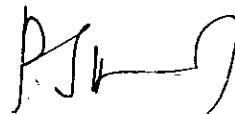
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6. Hence, we see no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed.

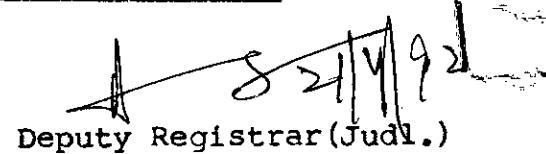
- In the circumstances of the case, we make no orders as to costs.



(P.S. HABEEB MOHAMED)
Member (A)

T. Chandrasekhar Reddy
(T. CHANDRASEKHARA RE)
Member (J)

Dated: 10th April, 1992



8/1/92
Deputy Registrar (Judy.)

Copy to:-

1. General Manager, India Government Mint, Hyderabad.
2. One copy to Sri. K. Sudhaker Reddy, advocate, CAT, Hyd.
3. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd-bad.
4. One spare copy.

Rsm/-

mvl

Sh. D. D. 21/4/92

✓ O.A. 815/89

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

THE HON'BLE MR. P.S. Habab Mohd. A.A.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
MEMBER (JUDL)

AND

THE HON'BLE MR. C.J. ROY : MEMBER (JUDL)

Dated: 10/4/1992 ✓

ORDER / JUDGMENT

R.C.A./M.A.NO.

O.A.No.
in
815/89 ✓

F.A.No.

(W.P. No.)

Admitted and interim directions
issued

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A.Ordered/Rejected.

No order as to costs.

pvm.

