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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD.

D.A.No. 252/90  
T.A.No.

DATE OF DECISION:- - - - July, 1990

Between:-

D.T.K. Chakravarthi - - - - - Petitioner(s)  
Mr. Y. Suryanarayana & others - - - - - Advocate for the  
petitioner(s)

Versus

The Secretary, Information & Broadcasting  
New Delhi & others - - - - - Respondent.  
Mr. N. Bhaskara Rao, - - - - - Advocate for the  
Respondent(s)

CORAM:

THE HON'BLE MR. B.N. JAYASIMHA, VICE CHAIRMAN  
THE HON'BLE MR. D. SURYA RAO, MEMBER (JUDICIAL)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
  2. To be referred to the Reporter or not ?
  3. Whether their Lordships wish to see the fair copy of the Judgment ?
  4. Whether it needs to be circulated to other Benches of the Tribunals ?
  5. Remarks of Vice Chairman on columns 1, 2, 4 (To be submitted to Hon'ble Vice Chairman where he is not on the Bench)
- Yes

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :HYDERABAD  
BENCH AT : HYDERABAD

O.A. No.252/90

Date of Order: 13 July, 1990

BETWEEN

D.T.K. Chakravarthy

.. Applicant

Versus

1. The Union of India, Represented  
by its Secretary, Information  
and Broadcasting,  
Sastri Bhavan, New Delhi.
2. The Director General, Doordarshan,  
Copernicus Road,  
New Delhi.
3. I.B.Karn, Under Secretary,  
Information & Broadcasting,  
New Delhi.
4. The Director,  
Doordarshan Kendra,  
Ramanthapur, Hyderabad.

.. Respondents

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APPEARANCE

For the Applicant

: Shri Y. Suryanarayana, Advocate

For the Respondents

: Shri N. Bhaskara Rao,  
Standing Counsel for Respondents

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CORAM

THE HON'BLE SHRI B.N. JAYASIMHA, VICE CHAIRMAN

THE HON'BLE SHRI D. SURYA RAO, MEMBER (JUDICIAL)

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(Judgement of the Bench delivered by Hon'ble Shri D.Surya Rao,)  
Member (Judicial)

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1. The applicant herein is a Producer Gr.II of Doordarshan Kendra, Ramanthapur, Hyderabad. In this application he seeks to question the order No. C-13012/4/90-Vig. dt.5.3.1990 issued in the name of President of India, by the Under Secretary, Govt. of India, Ministry of Information and Broadcasting, New Delhi placing him under suspension under <sup>Rule</sup> ~~Section~~ 10(1)(b) of the CCS (CCA) Rules, 1965. The applicant contends that he was working in the Doordarshan Kendra (in the scale of Rs.2000-3500/-) as Producer Gr.II before suspension and that he had expressed his willingness for permanent absorption as the Government Servant. It is contended by him that the Director General, Doordarshan is the disciplinary authority and is alone competent to place him under suspension pending an enquiry and investigation. He states that under Section 4.5.18 of the Doordarshan Manual Vol.I and II, the appointing authority or the authority superior to the appointing authority is competent to suspend for good and sufficient reason. In the instant case the impugned order of suspension is passed by the Under Secretary to the Government of India who has neither power nor jurisdiction to place the applicant under suspension. Apart from this objection as to competence of the Under Secretary, it is contended that the Deputy Secretary, Ministry of Information and Broadcasting, New Delhi had on 17.1.1990 conducted an enquiry into the allegations of corruption against a few officials of the Doordarshan Kendra, Hyderabad and consequently on 18.1.1990 a preliminary enquiry was conducted into the alleged malpractices by Sri Swagat <sup>Ghosh</sup> Dy. Secretary, Ministry

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of Information and Broadcasting, New Delhi. Certain questions were put to the applicant during the preliminary enquiry. The applicant while filing a copy of the questions and answers given during the preliminary enquiry, contends that a perusal of the said questions and answers disclosed that commission of criminal offence is <sup>of</sup> myth and figment <sup>of</sup> investigation of the Secretary to the Government of India, who is the <sup>author of the impugned order</sup> ~~competent authority~~. It is contended that the impugned order is violative of Article 14 and 16 of the Constitution. It is <sup>also</sup> ~~is~~ contended in this context that the applicant alone has been picked out for special attention pending investigation into the alleged commission of criminal offence and placed under suspension. For these reasons it is contended that the impugned order is liable to be quashed and set aside.

2. On behalf of the Respondents a reply has been filed and a preliminary objection is raised that the applicant should have exhausted his right of appeal against the order of suspension passed under CCS CCA Rules, 1965, that he had preferred the present application without availing of the departmental remedies available to him and that the application is therefore barred under Section 20 of Administrative Tribunals Act. In regard to the competence of the Under Secretary to the Government of India, to issue the impugned order dt. 15.3.90 it is contended that the said order has been passed in the name of the President of India, that the Under Secretary has signed the order for and on behalf of the President of India, that therefore the competent authority who passed the order is the President of India and that there is no infirmity in the communication

of the Order by the Under Secretary. It is contended that under Rule 10(1)(b) of CCS (CCA) Rules, the competent

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authority may place a Govt. servant under suspension where a case in respect of any criminal offence ~~case~~ is under investigation/enquiry, that a case against the applicant in respect of <sup>a</sup> criminal offence is under investigation and that therefore the order of suspension is perfectly legal and valid. It was further contended that no right of the applicant guaranteed under the constitution has been violated and that therefore the order of the suspension is valid and proper. For these reasons it is prayed that the application may be dismissed.

3. We have heard the learned counsel for the applicant Shri Y. Suryanarayana and Shri Naram Bhaskara Rao, Addl. Central Government Standing Counsel on behalf of the Respondents. The first question is whether the order of suspension dt. 5.3. '90 is illegal or bad for the reason that it has been signed by the Under Secretary, Govt. of India, Ministry of Information and Broadcasting. A reading of the order clearly shows that the suspension order is issued by order and in the name of the President of India. The body <sup>of the order</sup> also reads that it is issued by President of India in exercise of powers conferred by sub rule 1 (b) of Rule 10 of CCS CCA Rules. The notification issued under Article 77(2) of the Constitution viz., G.O. Ms. 227 dt. 3.11.1958 reads that the authorised Under Secretary or Asst. Secretary, Government of India, can sign orders in the name of the President of India. It is not contended <sup>by the applicant</sup> that the Under Secretary in the Ministry of Broadcasting is not authorised to sign or authenticate orders on behalf of the President of India. There is therefore no substance in the contention that the order is illegal on the ground that it has been issued by the Under Secretary, Government of India.

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4. The next question is whether the applicant had not exhausted the other departmental remedies available to him and whether his application is therefore liable to be dismissed under Section 20 of the Administrative Tribunals Act. In the instant case as stated supra the order of suspension has been passed by the President of India. Section 20 of the Administrative Tribunals Act lays down that the Tribunal shall not ordinarily admit applications unless the applicant had availed of all the remedies available to him under relevant Service Rules. Section 3 (7) of the Administrative Tribunals Act defines the expression "Service Rules as to redressal of grievances", to mean "the rules, regulations, orders or other instructions or arrangements as enforced for time being with respect to redressal, otherwise than this Act of any grievances". Sri Naram Bhaskara Rao, Addl. Central Govt. Standing Counsel contends that under Section 29 of the CCS (CCA) Rules, 1965 the applicant has a right of revision to the President against an order passed by the President of India himself. He relies upon the decision of the Jabalpur Bench of the Tribunal reported in 1988 (2)ATLT (CAT)334 (Rajinder Jonko Vs. Union of India). In this decision it has been held that against an order of the President, though no appeal lies by virtue of rule 22 of CCS(CCA) Rules, yet an employee has a right of revision to the President under Section 29 of the CCS (CCA) Rules. Shri Y. Suryanarayana on the other hand seeks to contend that a revision would lie only against the order of a subordinate Officer to a superior authority and as such no revision lies against an order of the President since there

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is no superior authority to the President. He relies on the decision of the Delhi High Court rendered in 1981 (1)SLR 752. That was a decision rendered when power under Rule 29 was described as the power of "Review". The Delhi High Court held that the word 'Review' must be read as 'Revision' and that under S.29 as it stood the President had no power to revise or review his own order. The Govt. of India thereupon in 1981, by GI MHA Notification No. 11012/1/80-Ests(A) dt.6.8.81 amended the CCS (CCA) Rules, 1965 whereby the heading to Rule 29 was amended from Review to Revision and a separate new provision viz., Rule 29-A was introduced giving power to the President to review his own order. Sri Suryanarayana contends that Rule 29 as interpreted by the Delhi High Court has not changed except to the extent of the heading and that the dicta rendered that this provision does not confer power on the President to review <sup>(revise)</sup> his own order still continues to be good law. He therefore contends that no right vests in the applicant to prefer a revision to the President under Rule 29, that under Rule 29-A the power of review is a limited right and as such the applicant should not be non-suited on the ground that he has not availed all the remedies available to him under the service rules as to redressal of grievances.

5. The questions raised by counsels for both sides requires further investigation and in normal circumstances we would have referred the matter to a Full Bench since the Jabalpur Bench of the Tribunal in 1988(1)ATLT(CAT)334 has not considered the scope and effect of the Delhi High Court in 1981 SLR 752. However in our opinion it would not be necessary to do so in the instant case. Section 20 of the

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~~Section 29~~ of the Administrative Tribunals Act, as already mentioned earlier, lays down that the Tribunal shall not ordinarily admit an application unless the applicant has exhausted the remedies available to him under the relevant service rules as to redressal of grievances (emphasis on ordinarily is laid by us). Apart from the question whether an employee has a right of further revision to the President against an order of the President himself besides being not clear, <sup>in view of the contrary decisions of the Delhi High Court and the Jabalpur Bench of the C.A.</sup> the Govt of India itself appears to be in doubt on this question. After amendment of the heading or title to Rule 29 and introducing Rule 29-A in view of the decision of the Delhi High Court in 1981 (1)SLR 732<sup>5</sup> the Govt. of India had issued the following clarification or Departmental instruction in G.I., M.H.A O.M. 11012/1/80-Ests.(A) dt.13.9.1981:

"(1) President's Power of review under Rule 29. Attention is invited to this Department Notification of even No. dated the 6th Aug.81, amending Rule 29 of the CCS (CCA) Rules, 1965, and introducing Rule 29-A therein. The amendment has been necessitated by the judgement of the Delhi High Court in the case of Shri R.K. Gupta Vs. Union of India and another (C.W.P.Nos.196 of 1978 and 322 of 1979) in which the High Court has held that under Rule 29 of the C.C.S (C.C.A) Rules, 1965-

- 1)-the President has power to review any order any order under the C.C.S (C.C.A) Rules, 1965 including an order of exoneration and
- 2) the aforesaid power of review is in the nature of revisionary power and not in the nature of reviewing one's own order.

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The matter has been examined in consultation with the Ministry of Law who have observed that the judgement of the Delhi High Court would indicate that the President cannot exercise his revisionary powers in a case in which the power had already been exercised after full consideration of the facts and circumstances of the case. There is, however, no objection to providing for a review by the President of an order passed by him earlier in revision if some new fact or material having the nature of changing the entire complexion of the case comes to his notice later. Accordingly, Rule 29 of the C.C.S (C.C.A) Rules, 1965, has been amended to make it clear that the power available under that rule is the power of revision and a new rule, Rule 29-A has been introduced specifying the powers of the President to make a review of any order passed earlier, including an order passed in revision under Rule 29, when any new fact or material which has the effect of changing the nature of the case comes to his notice. It may also be noted that while the President other authorities enumerated in Rule 29 of the C.C.S (C.C.A) Rules, 1965, exercise the powers of revision under that rule, the power of review under the Rule 29-A is vested in the President only and not in any other authority. With the amendment of Rule 29 and the introduction of Rule 29-A, the heading of Part VIII of the C.C.S (C.C.A) Rules, 1965 has also been appropriately changed as "Revision and Review".

It is clear from a reading of this instruction that the Govt. of India accepted the legal position as enunciated by the Delhi High Court "that the President cannot exercise his revisionary powers in a case in which the power had already been exercised after full consideration of the facts and circumstances." The "power" referred to in the opinion of the Law Ministry is not the power to revise an order passed in revision as in R.K Gupta's case the order impugned was not an order of the President seeking to revise an earlier order passed in revision, but an order seeking to revise an original order passed by the President acquitting the employee of the charges. Thus when the Govt. of India's own instructions proceed on the basis that the President cannot revise his own orders it would not be reasonable to expect an ordinary employee of the Central Govt. to interpret the power of the President under Rule 29

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as to mean a power to revise his own order. It would not be fair or reasonable to therefore reject the application on the threshold on the ground that he has not availed of all the remedies available to him under the relevant service rules. We are of the view that even if the interpretation laid down by the Jabalpur Bench in 1988 (2) ATLT (CAT) 334 is good law the present case is not one wherein the Tribunal should "not ordinarily admit the application". We accordingly hold that Section 20 of the A.P. Administrative Tribunals Act is not a bar to the filing of the present application.

6. The question that arises for determination is whether in the instant case the order of the Government / President placing the applicant under suspension is legally valid. The impugned order dt.5.3.1990 reads that a case against the applicant in respect of a criminal offence is under investigation and that therefore the applicant is placed under suspension in exercise of the powers conferred under sub rule (1)(b) of Rule 10 of the CCS (CCA) Rules, 1965. Rule 10(1)(b) reads as follows:

" 10. Suspension

- (1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the President, by general or special order, may place a Govt. servant under suspension: -

a) omit

aa) omit

- b) Where a case against him in respect of any criminal offence is under investigation, inquiry or trial:"

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7. It is clear that to invoke the power under Rule 10 (1)(b) it is necessary that a case against an employee "in respect of any criminal offence is under investigation, inquiry or trial." The C.C.S (C.C.A) rules do not define what is investigation, inquiry or trial. Since these expressions are relatable to a criminal offence we have to fall back on provisions of the Criminal Procedure Code for understanding the meaning of the expressions. Inquiry is defined in Section 2 (g) of the Code as follows:

"Inquiry means every inquiry other than trial conducted under this code by a Magistrate."

The expression 'investigation' is defined in Section 2 (h) of the code as: "investigation includes all the proceedings under this code for the collection of evidence conducted by a Police Officer or by any person (other than a Magistrate) who is authorised in this behalf."

The expression Trial is not defined but it is well established that 'Trial' under the code means hearing of <sup>a</sup> case by a court after framing of a charge. Thus under the Code investigation is to be conducted by the Police, inquiry by a Magistrate and Trial by the Court. In regard to a cognizable offence a criminal investigation is put into motion by making a complaint to an officer in charge of a police station, which complaint if made orally shall be reduced to writing and the contents thereof shall be recorded in the prescribed book kept in the Police Station (General Diary) vide Section 154 Criminal Procedure Code. A Station House Officer can commence investigation into a cognizable offence without the sanction or order of a Magistrate (S.156 of Criminal Procedure Code) but before commencing the investigation he shall send a copy of the F.I.R to the Magistrate having jurisdiction (S.157). Thus

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investigation starts by making a complaint to the Police Office incharge of a Police Station. After recording of the complaint and sending a copy thereof to the Magistrate the Police Officer can proceed further with the investigation. Under the code an investigation starts after a police officer receives information in regard to an offence. The further steps which he takes by way of investigation or enquiry are (i) Proceeding to the spot (ii) Ascertainment of facts and circumstances of the case (iii) Discovery and arrest of the suspected offender (iv) collection of evidence which may consist of (a) examination of various persons (including the accused) and the reduction of their statements into writing if the officer thinks fit (b) search of places or seizure of things considered necessary for the investigation and to be produced at the trial and (v) formation of opinion as to whether on the material collected there is a case to place the accused before the Magistrate for trial and if so taking the necessary steps by filing a charge sheet into Court under Section 173 Criminal Procedure Code vide observations of the Supreme Court in A.I.R 1955 SC 196 (at page 201). Thus, while under the code normally an investigation should be proceeded by a complaint, it is not incumbent that the complaint should be reduced to writing and registered in a Police Station in every case before an investigation is commenced. In some cases it is possible that the investigation has commenced on receipt of the information and that soon thereafter the complaint or information is registered or forwarded. This was the case in A.I.R 1976 SC 449 (at 456) wherein a complaint was made to an Inspector of the Anti Corruption Department. He arranged a raid and examined witnesses. It was held that

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what the Inspector did came within the definition of investigation and that the fact that he later forwarded the complaint to the police station for formal registration did not do away with the character of investigation. However, all preliminary enquiries on information received by a Police Officer do not constitute investigation. If the Police are merely verifying facts it would not constitute an investigation. It is only when a Police Officer forms a definite opinion that there are grounds for investigation of a crime that an investigation starts. It would also be useful to refer to the decision of a D.B. of Delhi High Court in 1971 (1)SLR 477 (S.K. Gupta Vs. Union of India). In that case as in the case before us herein an employee was placed under suspension under Rule 10(1)(b) of CCS (CCA) Rules, by the President of India on the ground that a case against him was under investigation. The C.B.I., registered the case as a Preliminary enquiry (P.E) and did not record the complaint or information received as a Regular Case (R.C) under Section 154 Criminal Procedure Code. The Delhi High Court while referring to the observations of Aying J. in AIR 1915 Mad.312 (in re Nandamuri Anandayya) <sup>held R</sup> in <sup>R</sup> S.K. Gupta's case ~~held~~ as follows:

"It is described as a preliminary enquiry. Section 154 of the Code of Criminal Procedure which deals with the recording of information relating to the commission of a cognisable offence is not mentioned in this document. After recording the information it is stated that the preliminary enquiry is being registered for verification as it requires a probe. In our opinion the words "preliminary enquiry" 'probe' and verification are significant and go to show that this preliminary enquiry cannot be equated to an investigation as contemplated by Section 157 of the Code. Every action taken by the authority competent to investigate into an alleged offence on receiving some information or report cannot be said to constitute the commencement of investigation by the said authority."

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In regard to the plea of the respondents Government that there is no <sup>or difference between or</sup> ~~decision in regard to~~ a preliminary enquiry and <sup>or</sup> ~~an~~ investigation the Delhi High Court in R.K. Gupta's case held as follows:

"23. It is contended on behalf of the respondents that there is no difference between a preliminary enquiry such as the one which was registered on May, 16, 1969 and in investigation pursuant to a first information report lodged under section 154 of the Code of Criminal Procedure. Reliance is placed upon the unreported decision of the Supreme Court dated April 17, 1963 in Criminal Appeal No. 171 of 1961 in re: *The State of Uttar Pradesh v. Bhagwant Kishore Joshi*. In this case a report was sent to the Superintendent of Police, Special Police Establishment, stating that information had been received through a source that the accused was in the habit of misappropriating Government money giving seven instances of the acts of misappropriation committed by him and intimating that if proper investigation were made, many more cases of misappropriation would come to light. On receipt of this report, the Superintendent of Police directed a Sub Inspector of Police to make an enquiry whereupon the railway records were checked and it was found that the information was correct. A report was submitted. Thereafter, the Sub Inspector applied to the Additional District Magistrate for permission to investigate the case and permission was granted. On these facts the Supreme Court considered the question whether the enquiry made by the Sub Inspector before he obtained the permission of the Magistrate was "investigation" within the meaning of the provisions of the Code of Criminal Procedure. The Supreme Court found that the Sub Inspector verified the allegations contained in the information; saw the relevant railway records and found the information given to be correct and on the basis of the information collected, submitted a report. The Supreme Court observed that even though the Sub Inspector had not given the full details of the enquiry, he had "proceeded to the spot of the offence, ascertained the relevant facts by going through the railway records and submitted a report of the said acts" and on these facts came to the conclusion that the said acts of the Sub Inspector constituted an investigation as defined in section 4 (1) of the Code of Criminal Procedure. This conclusion was arrived at by the Supreme Court on the finding that "the information received was clear and precise and the Sub Inspector, on the basis of the said information, went to the spot to investigate into the truth of the allegations and indeed took some of the crucial steps to detect the crime." In coming to this conclusion, the Supreme Court noticed the case reported in A.I.R. 1915 Madras 312 in re: *Nanumuri Anandayya* where it had been held that an informal enquiry on the basis of a vague telegram was not an investigation within the meaning of section 157 of the Code of Criminal Procedure. The Supreme Court also reiterated the principle that a vague information or an irresponsible rumour would not in itself constitute information within the meaning of section 154 of the Code or the basis for an investigation under section 157 thereof and noticed the observations made in the case reported in A.I.R. 1958 Madras 368 in re: *Kangarajulu* describing the

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three stages a policeman has to pass in a conspiracy case when he 'hears something of interest affecting the public security and which puts him on the alert; makes discreet enquiries, takes soundings and sets up informants and is in the second stage of qui vive or look out; and finally gathers sufficient information enabling him to bite upon something definite and that is the stage when first information is recorded and when investigation starts.' The decision of a Full Bench of the Kerala High Court reported in I.L.R. 1960 Kerala 783 in re : *The State of Kerala v. M.J. Samuel* was noticed and in this case it has been observed that "it can be stated as a general principle that it is not every piece of information however vague, indefinite and unauthenticated it may be that should be recorded as the First Information for the sole reason that such information was in first, in point of time, to be received by the police regarding the commission of an offence". In our opinion, the afore-cited decision of the Supreme Court would not help the respondents because we are of the view that the Central Bureau of Investigation had merely registered the report for starting an informal enquiry on the basis of information which was received by it from what has been described as 'source' with respect to the allegation of disproportionate assets. No facts have been disclosed by the respondents in the present case with respect to the steps taken by the Central Bureau of Investigation after the aforesaid registration to enable us to come to the conclusion that any investigation was launched by the aforesaid Bureau. The respondents have merely stated that the Central Bureau of Investigation had asked the Directorate General of Technical Development to get certain forms sent by it to the Directorate to be filled in by the petitioner. The respondents have not only failed to give details of the search of the petitioner's house but have even disowned the knowledge of it. These facts alone cannot, to our mind, equate the preliminary enquiry registered on May, 16, 1969 to an investigation within the meaning of section 4 (1) of the Code of Criminal Procedure which is the service in which the expression "investigation" used in rule 10 (1)(b) has to be understood as such investigation has to be in a case in respect of a criminal offence. The mere information to the Special Police Establishment resulting in the registration of a preliminary enquiry for verification cannot, therefore, be equated to an investigation. The information which was registered for a preliminary enquiry on May 16, 1969 merely remains on information and the search was for the purpose of a probe and verification as to the correctness of the information rather than an investigation of the question whether the petitioner had committed a criminal offence. Such a preliminary enquiry cannot justify the passing of an order of suspension under rule 10 (1)(b) of the Rules. The condition precedent to the exercise of the power of suspension was, therefore, lacking and we quashed the order of suspension on that ground."

Thus from a reading of Rule 10(1)(b) of CCS (CCA) Rules, the provisions of the Criminal Procedure Code and the decisions referred to above, it would follow that an employee can be kept under suspension if a case against him is pending investigation for a criminal offence, but such an investigation should have been taken up under the Criminal Procedure Code, that investigation commences when the investigating authority formally records or register the information or complaint and takes over steps like collection of evidence and that before a public servant is charged with acts of dishonesty any preliminary enquiry or probe or verification done does not constitute an investigation against him.

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8. Applying the above principles <sup>it</sup> can be said that an investigation for a criminal offence has commenced against the applicant herein<sup>?</sup>. It would be necessary in this regard to consider the record produced by the respondents in support of their plea that a criminal case against him is under investigation. The record discloses that on a complaint received, one Sri Swagat Ghosh, Dy. Secretary Ministry of Information and Broadcasting made an enquiry and submitted a report. On receipt of this report the applicant was placed under suspension by <sup>the impugned</sup> ~~an~~ order dated 5.3.1990. It was only 3 days later viz., on 8.3.1990 that the C.B.I. was addressed enclosing a copy of the report of Sri Swagat Ghosh and requesting that a detailed investigation be conducted into the allegations. Thereafter the present application was filed, admitted and arguments heard in regard to interim relief. While dismissing the application for interim suspension of the order of suspension we had observed that the question whether a criminal investigation is pending against the applicant can be determined <sup>after perusing the records</sup> at the stage of final hearing. The files produced disclosed that thereafter the Ministry of Information and Broadcasting on 13.6.1990 addressed the C.B.I., stating that the Tribunal had sought information whether any criminal case against the applicant was under investigation or not <sup>and</sup> that progress of the case may be intimated. In reply thereto the C.B.I., replied on 15.6.90 that the C.B.I., is still verifying the information and that no request was made by the C.B.I., for the suspension of the applicant.

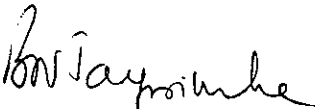
9. The factual position stated in the preceeding paragraph discloses that on 5.3.1990 viz., the date the applicant was placed under suspension no information or complaint had been made to the C.B.I., It was only three days later that the C.B.I., was addressed enclosing a copy of Sri Swagat Ghosh's

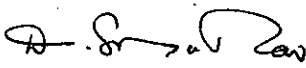
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- To
1. The Secretary, Union of India, Information and Broadcasting, Sastry Bhavan, New Delhi.
  2. The Director General, Doordarshan, Copernicus Road, New Delhi.
  3. I.B.Karn, Under Secretary, Information & Broadcasting, New Delhi.
  4. The Director, Doordarshan Kendra, Ramantapur, Hyderabad.
  5. One copy to Mr.Y.Suryanarayana, Advocate, High Court Bar Association, Hyderabad.
  6. One copy to Mr.N.Baskara Rao, Adml.CGSC. CAT, Hyd.Bench.
  - 7 The Dy.Registrar,Central Admn.,Tribunal, Madras Bench, Tamilnadu Text Book Society Building, D.P.I. Compound, Nungambakkam, Madras-600005.
  - 8 The Dy.Registrar,Central Admn., Tribunal, Calcutta Bench, CGO Complex, 234/4-ADC B. se Road, Nizam Palace, Calcutta-700020.
  - 9 The Dy.Registrar,Central Admn.Tribunal, Bombay Bench, CGO Complex(CBO), 1st floor, New Bombay-400614.
  - 10 The Dy.Registrar,Central Admn.Tribunal, Chandigarh Bench, Set No.102-103, Sector-34, Chandigarh.
  - 11 The Dy.Registrar,Central Admn.,Tribunal, Allahabad Bench, 23-A, Thorn Hill, Road, Allahabad-211001.
  - 12 The Dy.Registrar,Central Admn.Tribunal, Guwahati Bench, Rajgarh Road, off.Shillong Road, Guwahati-781005.
  - 13 The Dy.Registrar,Central Admn.Tribunal, Bangalore Bench, Commercial complex (BDA), Indira Nagar, Bangalore-560030.
  - 14 The Dy.Registrar,Central Admn.Tribunal, Ernakulam Bench, Kandamukulathil Towers, 5th & 6th floors, Opp.Maharaja College, M.G.Road, Ernakulam, Cochin-682001.
  - 15 The Dy.Registrar,Central Admn.Tribunal, Jabalpur Bench, CARVS Complex, 15-Civil Lines, Jabalpur, M.P.
  - 16 The Dy.Registrar,Central Admn.Tribunal, Patna Bench, 32-A, B.M.Enterprises, Shri Krishna Nagar, Patna-1.
  - 17 The Dy.Registrar,Central Admn.Tribunal, Jodhpur Bench, C/o.Rajasthan High Court, Rajasthan(Jodhpur).
  - 18 The Dy.Registrar,Central Admn.Tribunal, Admadabad Bench, Navarang Pura, Near Sardar Patel Colony, Dasmapura, Ahmadabad.
  - 19 The Dy.Registrar,Central Admn.Tribunal, Cuttack Bench, Dolmandi, Cuttack-753001.
  - 20 The Dy.Registrar,Central Admn.Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi-110001.
  - 21 Sri Sanjeev Malhotra, Managing Editor, All India Services Law Journal, 22, Tagore Park, New Model Town, New Delhi-9.
  - 22 The Editor, Kerala Law Times, High Court Road, Ernakulam, Cochin-602031.
  - 23 M/s.Eastern Book Company, 34, Lalbagh, Lucknow.
  - 24 M/s.Delhi Law Times, 5355, Jawaharnagar, Kolhapur Road, Delhi-7.
  - 25 Sri Hasin Ahmad, Spl.Representative Reporter, A.I.R.Ltd, No.21-1-1964&1965, Gandhi Bazar, Opp.High Court Bar Association, Hyderabad.
  - 26 The Administrative Tribunal Reporter, Bhagat Singh Market, 90, New Delhi-110001.
  - 27 Sri KBS Sarma, General Secretary, All India Equal Rights Association, C-58, HUDA Residential Complex, Vanasthalipuram, Hyderabad.
  - 28 The Dy.Registrar(J), Central Admn.Tribunal, Hyderabad Bench, Hyderabad.
  - 29 One copy to Library, CAT, Hyderabad Bench, Hyderabad.
  - 30 Two Spare copies.

report. The question of a case against the applicant in respect of any criminal offence being under investigation does not and could not arise on the date of the order of suspension. Even after the information was given to the CBI, alongwith the report of Sri Swagath Ghosh the record discloses that till to-date the CBI has not formally recorded or registered a case under the provisions of Criminal Procedure Code (Sections 154, 156 and 158). The CBI themselves as late as on 15-6-1990 state that they are still verifying the information. Such a verification is at best only a preliminary enquiry. Such a preliminary enquiry cannot constitute an investigation under the Criminal Procedure Code as laid down by the Delhi High Court in 1971 (1) SLR 477. The impugned order dated 5-3-1990 issued under Rule 10(1)(b) of the CCS(CCA) Rules, 1965 placing the applicant under suspension is therefore liable to be set aside since the condition precedent for exercise of the power was lacking. The order of suspension is accordingly quashed as it is not warranted by law. The applicant shall be reinstated to service. The application is accordingly allowed but in the circumstances the parties are directed to bear their own costs.

  
(B.N. JAYASIMHA)  
VICE CHAIRMAN

  
(D. SURYA RAO)  
MEMBER (JUDL.)

DT. 13<sup>th</sup> JULY 1990

MVS/Sqh

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DEPUTY REGISTRAR (JUDL.)

15/7/90