

(96)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.604/90.

Date of Judgment 23.8.1991

Y.V.Atchuta Rao

.. Applicant

Vs.

1. Union of India,
represented by
The Secretary,
Ministry of Defence,
New Delhi-1.
 2. Engineer-in-chief,
Army Headquarters,
DHQ P.O.,
New Delhi-1.
 3. Chief Engineer
Headquarters,
Southern Command,
Pune-1.
 4. Director-General,
Naval Project,
Visakhapatnam-14.
- .. Respondents

Counsel for the Applicant : Shri V.Venkateswara Rao

Counsel for the Respondents: Shri N.V.Ramana,
Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This application has been filed by Shri Y.V.Atchuta Rao under section 19 of the Administrative Tribunals Act 1985 against the Union of India, represented by the Secretary, Ministry of Defence, New Delhi-1 and 3 others

2. While the applicant was functioning as Store Keeper Gr.II under the 4th respondent a charge-sheet was issued on 21.3.86. An enquiry was conducted and he was dismissed from service by an order dated 11.6.88 of the Chief Engineer. The applicant preferred an appeal against it which was also rejected. At that stage he had approached this Tribunal with an O.A.No.578/89. The judgment was

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pronounced on 25.4.90 based on the Full Bench decision in the case of Premnath K.Sharma Vs. Union of India & others. Thereafter, the respondents had furnished him a copy of the enquiry report and wanted his reply within 15 days thereafter. The applicant initially sought for 45 days time vide his letter dated 20.6.90 but subsequently changed his ^{stand} ~~plea~~ that unless he was paid all pay and allowances he would not be in a position to submit his objections. He conveyed this stand of his by a letter dated 22.6.90. The applicant contends that since on reinstatement pursuant to the decision of this Bench he had not been placed under suspension by a separate order he is entitled to full pay and allowances for the subsequent period. He also states that at any rate he cannot be denied the subsistence allowance. In this application he prays for a direction to declare the order No.DG/1209/YVA/GP.4/487/E1 dated 18.6.90 (Annexure VI) and direct the respondents to pay all arrears of pay and allowances.

3. The respondents have filed a counter affidavit and they oppose the prayer.

4. We have examined the case and heard the learned counsel for the applicant and the respondents. Pursuant to the decision of this Bench in O.A.No.587/89 invoking the principle laid down in the Full Bench case of Premnath K.Sharma Vs. Union of India & others reported in (1988) 6 ATC 904 the respondents vide their letter No.DG/1209/YVA/GP.4/486/E1 dated 18.6.90 (Annexure V) allowed him to resume duty w.e.f. 8.6.90. Since he was already under suspension prior to dismissal he was deemed to have been placed under suspension on his resumption of duties. The intervening period from the date of dismissal from service to the date of resumption of duties will be regularised after completion of fresh proceedings.

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This is quite in conformity with the directions given in para 30 of the Full Bench judgment. It is stated therein that if the respondents choose to continue the disciplinary proceedings and complete the same, the manner as to how the period spent in the proceedings should be treated would depend upon the ultimate result. The respondents chose to continue the proceedings and vide their letter No.DG/1209/YVA/GP.4/487/EI dated 18.6.90 (Annexure VI) they furnished a copy of the Inquiry Officer's report and wanted the applicant to submit his representation within 15 days thereafter. Immediately, by his letter dated 20.6.90 the applicant intimated that 15 days time was not sufficient and, therefore, wanted 45 days time. Within 2 days thereafter, by his letter dated 22.6.90 the applicant complained that the respondents had not passed any order till then regarding the period from 11.6.88 (date of dismissal) till then. He stated that until such time payment was settled it was not possible for him to submit his objections even within 45 days as required in his letter dated 20.6.90. The applicant now wants the letter No.DG/1209/YVA/GP.4/487/EI dated 18.6.90 (Annexure VI) to be declared as illegal and quashed. In that letter the respondents had furnished the Inquiry Officer's report and wanted him to submit his objections within 15 days. The applicant has contended that since a separate suspension order has not been passed he should be deemed to be on duty and full pay and allowances should be paid to him. We do not accept this contention in view of the liberty given to the respondents in the Full Bench judgment. The respondents are, therefore, well within their right to deem him to be under suspension. However, the applicant is entitled to subsistence allowance in accordance with the rules. The respondents cannot delay the payment of subsistence allowance in accordance with the rules any longer. At the same time, the applicant cannot link up this issue with his objections on the Inquiry Officer's

To

1. The Secretary, Union of India,
Ministry of Defence, New Delhi-1.
2. The Engineer-in-Chief, Army Headquarters,
DHO P.O. New Delhi-1.
3. The Chief Engineer, Headquarters,
Southern Command, Pune-1.
4. Director-General, Naval Project, Visakhapatnam 14.
5. One copy to Mr.v.venkateswara Rao, Advocate , C&T,Hyd.
6. One copy to Mr.N.v.Ramana, Addl.CGSC. CAT.Hyd.
7. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J) CAT.Hyd.
8. One spare copy.

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report. He has raised a number of points in the O.A. It is open to him to agitate these points in his representation to the disciplinary authority in the light of the enquiry report now furnished to him. In view of this application pending before us the time limit either given by the respondents or sought for by the applicant has lost significance. Under these circumstances, we dispose of this application with the following directions:

(a) The respondents should immediately effect payment of subsistence allowance in accordance with the rules. This should be paid to the applicant within one month of receipt of this judgment.

(b) The applicant should not delay submission of his objections to the enquiry report as required by the respondents in their letter No.DG/1209/YVA/GP.4/487/E1 dated 18.6.90 (Annexure VI). He should furnish his objections to the concerned authorities within 30 days of receipt of this judgment, regardless of the fact whether he receives the subsistence allowance or not. If no representation is given by him to the concerned disciplinary authority within this time, the disciplinary authority is at liberty to presume that there is no objection from the side of the applicant on the enquiry report and proceed further.

5. The application is disposed of thus with no order as to costs.

(J.Narasimha Murthy)
Member(Judl).

(R.Balasubramanian)
Member(Admn).

Dated 23rd August 91

Registrar.

15/8/91
C. S. S. S.
23/8/91

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TYPED BY _____ COMPARED BY _____
CHECKED BY _____ APPROVED BY _____
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR _____ V.C.
AND
THE HON'BLE MR. _____ M(J)
AND
THE HON'BLE MR. J. NARASIMHA MURTY: M(J)
AND
THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 23 - 8 - 1991

ORDER/ JUDGMENT

Central Administrative Tribunal
DESPATCH
65-1991
HYDERABAD BENCH.

M.A./R.A./C.A. No. _____
in

D.A. No. 604/90

T.A. No. _____ (W.P. No. _____)

Admitted and Interim directions
issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

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Qn/a