

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT : HYDERABAD

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Contempt Petition No.52 of 1990

*and*  
O.A.No. 317 of 1990

Dt. of Decision: 4-1-1991

Between:-

- |   |    |   |
|---|----|---|
| 1. G.Appa Rao   | .. | Applicant<br>(in both the applications) |
| and   |    |   |
| 1. Union of India, represented by<br>the Secretary to Government, Ministry<br>of Health and Family Welfare, Central<br>Secretariat, New Delhi-110001. |    |   |
| 2. Director-General of Health Services<br>(Stores-I Section), West Block-I,<br>Wing-6, Ramakrishnapuram, New Delhi-66.                                |    |   |
| 3. Deputy Assistant Director-General (MS),<br>Government Medical Store Depot,<br>Hyderabad-500038.  |    |   |
| 4. Sri Vishwa Vibhuti, Deputy Assistant<br>Director-General (MS), Government<br>Medical Store Depot, Hyderabad-38.                                    |    |   |

.. Respondents  
in do.

Appearance:

For the Applicant	:	Shri T.Jayant, Advocate.
For the Respondents 1 to 4	:	Shri Naram Bhaskar Rao, Addl. Central Govt. Standing Counsel.

CORAM:


THE HONOURABLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.  
THE HONOURABLE SHRI D.SURYA RAO, MEMBER(JUDICIAL).

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(JUDGEMENT OF THE DIVISION BENCH DELIVERED BY HONOURABLE)  
SHRI D.SURYA RAO, MEMBER (JUDICIAL).

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1. The applicant herein is working as Stores Superin-  
tendent, Government Medical Store Depot, Hyderabad. He

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has filed this application questioning the order dated 2-3-1989 issued by the <sup>3rd &</sup> 4th respondent placing him under suspension, pending contemplated disciplinary action against him. Subsequently on 5-4-1990 a Charge Memo was issued to him alleging that he had entered into a clandestine arrangement with a firm resulting in financial irregularities. The enquiry is pending. Various grounds have been raised questioning the order of suspension and claiming that the applicant is entitled for reinstatement to duty. The 1st ground is that the order of suspension has been issued for and on behalf of President of India whereas there is no order issued by the competent authority, who can issue such an order in the name of the President. The 2nd ground is that respondents 3 and 4 have pre-judged the case in an earlier O.A. wherein they have stated that disciplinary proceedings are under contemplation. It is contended that Respondent No. 3/Respondent No. 4 have acted malafide and out of prejudice. Another ground raised is that prolonged suspension is bad and despite the applicant having submitted <sup>an</sup> ~~the~~ appeal, no action has been taken so far.

2. On behalf of the respondents a counter has been filed stating that in the 1st ground the applicant has stated that the suspension order has been issued by the disciplinary authority (3rd/4th respondent) and the lines underneath typed as, "for and on behalf of the President of India" was a typographical error which might have been typed out <sup>in the</sup> ~~as a~~ proforma <sup>prescribed whereas it</sup> and this portion should have been struck off. Allegations relating to malafides of Tribunal's judgement are denied. It is contended that the

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applicant has been placed under suspension as it is apprehended that he is likely to tamper with the official records and since serious charges are the subject matter of enquiry against him. In regard to prolonged suspension, it is stated that the applicant had questioned the appointment of the Enquiry Officer, which was rejected. It is stated that the applicant appealed against the order rejecting his plea for transfer of Enquiry Officer and therefore the enquiry could not be completed early. It is contended that since the applicant was responsible for delay and stalling the enquiry proceedings, his subsistence allowance was not enhanced. For these reasons it is stated that the application may be dismissed.

3. On 23.4.1990 we had issued interim directions to consider enhancing subsistence allowance in accordance with the rules and to consider the request of the applicant for his posting at Madras. The applicant had filed a Contempt Petition No.52 of 1990 contending that these <sup>were</sup> directions ~~not~~ not obeyed. The respondents have filed a reply stating that both the directions of the Tribunal were duly complied with, in that his case for enhancement of subsistence allowance was considered. It is also contended that the concerned officer at Madras namely D.A.D.G. (MS), G.M.S.D., Madras, was approached to accommodate the applicant at Madras. Since there was no plan post to accommodate the applicant at Madras, the applicant could not be immediately accommodated at Madras and the D.G.H.S., New Delhi, has been approached in this matter.

4. We have heard Shri T. Jayant, learned Counsel for the applicant, and Shri Naram Bhaskar Rao, learned Additional

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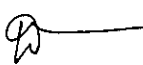
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Central Government Standing Counsel, on behalf of the respondents.

5. In so far as the Contemtion Petition is concerned, we are not satisfied that the orders of the Tribunal have not been complied with. It is clear that the applicant's case has been duly considered for enhancement of subsistence allowance and orders were passed. The mere fact that favourable orders were not passed does not mean that the orders of the Tribunal have not been complied with. Similarly his case for transfer to Madras has also been duly considered. We, therefore, find that no contempt has been committed by the respondents.

6. We will now take up the contention raised in the main O.A. In so far as the first contention of the applicant is concerned viz. <sup>that</sup> the suspension order is bad since it has been issued in the name of the President, we find no merit in this contention in view of the fact that it was stated by the respondents in the counter that it is a typographical error and it is not denied that the competent authority has placed the applicant under suspension. We also find no merit in the contentions relating to malafides as these contentions are not substantiated in any manner. We do not also see any merit in the contention that the competent authority has pre-judged the matter and pre-determined the case before placing the applicant under suspension. The order of suspension is therefore validly passed. The next point for consideration is the grievance of the applicant that the Disciplinary Authority has not reviewed his case with regard to the necessity for continuing him under suspension and for increasing the subsistence allowance at the end of 3 months as per the instructions of the Government of



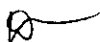
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India. He, therefore, claims that he should have been reinstated or in the alternate if his reinstatement is not considered possible, his subsistence allowance should have been increased to 75%.

7. Shri Naram Bhaskar Rao, learned Counsel for the respondents, has produced the files and states that the respondents have periodically reviewed the case of the applicant where after it was held that it is necessary to keep the applicant under suspension. He also contends that the competent authority had directed that same quantum of subsistence allowance was to be maintained. We have perused the records and found that the first review was made on 4-7-1989 and again on 4-10-1989 and subsequently in the months of January, April, July and November 1990. The reason given in all these reviews is that the applicant had made a representation questioning the appointment of the Enquiry Officer, that he had also preferred an appeal to the Director and that the appeal is pending with the Directorate. It was, therefore, held that since he had questioned the appointment of the Enquiry Officer, he is responsible for stalling the enquiry proceedings, that he may be continued to be kept under suspension and the same quantum of subsistence be continued to be paid. We do not think that the applicant can be blamed when the disciplinary authority has not disposed of the representation/appeal of the applicant for a long period. Attributing the delay to the applicant on this ground is wholly unjustified. The applicant should, therefore, be given the subsistence allowance at the enhanced rate after 3 months from the date of suspension.



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To

1. The Secretary, [redacted]  
Ministry of Health and Family Welfare,  
Central Secretariat, New-Delhi-110001.
2. Sri.Viswa Karama, Director General of Health Services  
(Stores I Section) West Block I,  
Wing 6 Ramakrishnapuram, New-Delhi-110066.
3. The Deputy Assistant Director General,  
Government Medical Store Depot, Hyderabad-500038.
4. Sri Vishwa Vibhuti, Deputy Assistant Director General (MS),  
Government Medical Stores Depot, Hyderabad-500038.
5. One Copy to Mr.T.Jayant, Advocate, 17-35B, Srinagar colony,  
Gaddiannaram, P&T Colony, P.O., Dilsukhnagar, Hyderabad-500660.
6. One Copy to Mr.<sup>N</sup>aram Bhaskara Rao, Addl.CGSC.CAT., Hyderabad.
7. One Spare Copy .

VGB.

Wm. J. Miller.

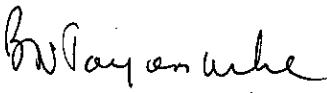
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6. In the circumstances, we pass the following orders:-

- 1) Subsistence Allowance may be enhanced after 3 months of suspension to 75% and the arrears shall be paid to him within a period of 2 months.
- 2) The disciplinary enquiry will be completed within a period of 2 months from the date of receipt of this order.
- 3) In the event the enquiry is not completed within the period prescribed at clause (2) above, the applicant will be reinstated into service.


With the above direction, the application is disposed of. No order as to costs. For the reasons given in the Original Application, the Contempt Application is disposed of without costs.

(Dictated in Open Court)

  
(B.N. JAYASIMHA)  
VICE-CHAIRMAN

  
(D.SURYA RAO)  
MEMBER (JUDICIAL)

Date: 4-1-1991

  
29/1/91  
Deputy Registrar

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be

Received  
B.C. on  
28/1/91

CHECKED BY

APPROVED BY

TYPED BY JGB.

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.B.N.JAYASIMHA : V.C. ✓

AND

THE HON'BLE MR.D.SURYA RAO : M(J) ✓

~~AND~~

~~THE HON'BLE MR.J.NARASIMHA MURTY:M(J)~~

~~AND~~

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

Dated: 4-1-1991.

ORDER / JUDGMENT:

M.A./R.A. /C.A. NO. 52/90  
+ +

F.A.NO.

W.P.NO.

O.A.No. 312/90

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.

