IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NOs.1500/97, 1501/97 & 1509/97

DATE OF ORDER : 13-11-1997.

Between :-

1. S.N.Sharma ... (Applicant in OA 1500/97)
2. Smt.J.Chitralekha ... (Applicant in OA 1501/97)
3. P.B.Ambu ... (Applicant in OA 1509/97)

... Applicants

And

1. Union of India rep. by its Secretary to Govt. of India, Family Welfare, Nirman Bhavan, New Delhi-11.
2. Director General of Health Services, Nirman Bhavan, New Delhi-110 011.
3. Director, CGHS, Dte.General of Health services, Nirman Bhavan, New Delhi-110 011.
4. Dy.Director (Admn. & Vigilance), Central Government Health Scheme, Dte.General of Health Services, Nirman Bhavan, New Delhi-110 011.
5. Addl.Director, CGHS, Kendriya Swasthya Bhavan, Prakashnagar, Begumpet, Hyderabad-500 016.
6. Dr.P.Pandurenga Rao, Addl.Director, CGHS, Kendriya Swasthya Bhavan, Prakashnagar, Hyderabad-16.
7. Dr.M.V.Ranga Reddy, formerly Chief Medical Officer (Stores), Central Medical Stores, CGHS, Hyderabad now working as Addl.Direct r, CGHS, C-Wing, Ist Floor, Rajaji Bhawan, Basant Nagar, Chennai-600 090.
8. Addl.Director, CGHS, C-Wing, Ist Floor, Rajaji Bhawan, Basant Nagar, Chennai-600 090.
9. Mrs.Jeevanlatha Srivastava, formerly Addl.Director, CGHS, Hyderabad, R/o 128, Nallakunta, Hyderabad-500 044.

Respondents in OA 1500 & 1509/97
Respondents 1 to 5 in OA 1501/97

Counsel for the Applicants : Shri Y.Suryanarayana in all OAs

Counsel for the Respondents : Shri V.Bhamanna, CGSC in all OAs

CORUM:

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

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COMMON ORDER

Heard Sri Y.Suryanarayana, counsel for the applicants and Sri V.Bhimanna, standing counsel for the respondents.

2. Sri S.N.Sarma, the applicant in OA 1500/97 was working as Asst.Dy.Manager and Asst.Depot Manager, CGHS, Hyderabad. By proceedings No.C.15019/1/97-A&V dt.28-10-97 he was placed under suspension on the ground that ~~the~~ a complaint against him is pending investigation.

3. Smt.J.Chitralekha, the applicant in OA 1501/97 was working as Stores Superintendent, CGHS, Hyderabad. She was placed under suspension by proceedings of even No. dt.28-10-97 on the ground that a complaint against her is pending investigation.

4. Sri Ambu, the applicant in OA 1509/97 was working as Accountant in CGHS, Hyderabad. He was placed under suspension by proceedings of even No. dt.28-10-1997, on the ground that a complaint against him is pending investigation.

5. The applicants have filed these three Original Applications challenging the orders dt.28-10-97.

6. Facts are similar. Grounds are common and reliefs are identical. Hence these three OAs are clubbed together heard and are being disposed of by this common order. The applicants have explained the practice adopted by the CGHS, Hyderabad, to purchase drugs and medicines for its use.

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7. The learned counsel for the applicants during the course of his arguments urged that the impugned orders of suspension are issued with malafide intention and he attributed bias on the respondents. The applicants' learned counsel submitted that the applicants had no role what-so-ever in the purchase of medicines , that a purchase committee and a Stores Acceptance Committee consisting of professional personnel were in existence, that the purchases were made as per the recommendations of the Purchase Committee, that the Stores Acceptance Committee is responsible for quality/quantity of medicines purchased and that the impugned orders of suspension are not sustainable in law.

8. When we questioned the learned counsel for the applicants the role or the performance of duties by the applicants in the manner of purchase or drugs and medicines for the CGHS, he was not able to state clearly the role played by any of the applicants in the matter.

9. Under these circumstances, we do not wish to express any opinion on these aspects because the case is pending investigation by the CBI.

10. The applicants have produced a copy of the first Information Report registered by CBI in Crime No.R.C.7(A)-Hyderabad dt.29-5-97. The averments made in the FIR are that the accused persons ~~have~~ hatched a conspiracy to defraud public funds of the State, misappropriated the funds and they had purchased medicines utility dates of which were expired on the dates of purchase.

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11. Under Rule 23(1) of the CCS(CCA) Rules, an order of suspension can be challenged before the competent appellete authority. The applicants herein have not exhausted the said statutory remedy available to them. They have straightaway approached this Tribunal.

12. The learned counsel for the applicants in persuading us to entertain this O.A. without considering the defect, relied upon the observations made by the Principal Bench of this Tribunal in the case of Toby Nainan Vs. Union of India & another reported in 1990 (13) ATC 894 (II). He particularly relied upon the observations made in para-12 of that order. We are not persuaded to consider the contentions of the counsel for the applicant. They have got an alternate statutory remedy ~~on merits~~ in view of section 20(1)of the Administrative Tribunals Act, 1985. Hence in view of section-20(1) of the AT Act, we decline to entertain the O.A.

13. On perusal of the impugned orders, we are not convinced to hold that the impugned orders are either tainted with malice or bias. No specific instance/s is/are brought out in the O.A.to substantiate the said versions. It is only because of pending investigations into the complaints, the applicants have been placed under suspension. Suspension cannot be regarded as punishment. It is only to pave way for an impartiable investigation. The competent authority has taken into consideration certain circumstances, before issuing the impugned orders.

14. The applicants are not placedunder suspension in contemplation of a departmental enquiry. They have been placed under

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suspension on account of pendency of criminal complaint against them pending investigation. The FIR has been registered by the CBI on 29-5-97. The matter is pending investigation. The CBI has registered the case against the applicants and another for the offences punishable under section 120(b) read with Sec. 420 of the Indian Penal Code and Section 13(2) read with section 13(1)(d) of the Prevention of Corruption Act. It may not be proper for this Tribunal to express any opinion as to the matter which is under investigation. The investigations will discharge lose complicity or otherwise of all or any of the applicants. The applicants can very well defend the charges. After trial according to law the competent special court will give its verdict. Any view expressed by this Tribunal may affect either of the parties. Our above view receives support from the decision of the Hon'ble High Court of Gujarath in the case of V.B.Mehta Vs. State of Gujarath & others (reported in 1997 (1) SLR 288 paras 2 & 3).

15. Considering the allegations contained in the FIR, we do not think the impugned orders of suspension are either capricious or arbitrary. This Tribunal's interference at this juncture is not warranted. In our humble view, the Tribunal may not interfere with the order of suspension unless the facts are such that the judicial conscience of the Tribunal cannot tolerate the suspension order. Such is not the case on hand.

16. If the applicants are so advised, may submit ~~an~~ appeals to the appropriate appellate authority against these orders of suspension dt.28-10-97 within 15 days from the date of receipt of the copy of this order. If such an ~~representation~~ appeal is preferred, then the

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appropriate appellate authority shall decide the appeal in accordance with rules and by a speaking order.

17. We also have no doubt in our mind that the respondent authorities take further actions as envisaged in Rule 10(5)(c) of the CCS(CCA) Rules, considering the progress of the investigation don by the CBI.

18. With these observations, all the 3 OAs are rejected. No order as to costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

न्यायालय अधिकारी/उप रजिस्ट्रार (न्यायिक)
Court Officer/Dy. Registrar
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH

केस संख्या
CASE NUMBER OA 1560, 1501 and 1509/97
निर्णय की तारीख
Date of Judgment 13/11/97
प्रति तैयार की गई तिथि
Copy Made Ready on 20/11/97

अनुभाग अधिकारी (न्यायिक)/उप रजिस्ट्रार (न्यायिक)
Section Officer (J)/Dy. Registrar (J)