

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR.

C.P. No. 6/93  
(OA No. 45/91)

Date of decision: 14.7.93

M.K. GAUTAM

: Applicant.

VERSUS

RAKESH KUMAR

: Respondents.

Mr. Mahendra Shah

: Counsel for the applicant.

Mr. U.D. Sharma

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. O.P. Sharma, Administrative Member

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

The applicant submitted that order dated 13.10.1992 (Annexure A-1) was passed by this Tribunal in which directions were given that the respondents should take immediate action in the matter within 3 months by giving consequential effects of the revocation of the suspension order. The applicant's grievance is that after revocation he has been made to join at Bikaner and that he has not been allowed to report at Jaipur where he was posted before his suspension. The second grievance is that the payment of the salary for the suspension period has not been made; only the subsistence allowance has been paid to the applicant.

2. Mr. Sharma has drawn our attention to the order of the revocation of suspension, Annexure A-3 dated 3.9.92. In that order itself, it has been stipulated that on revocation, Shri M.K. Gautam, Inspector is posted at Customs Division, Bikaner. Thus, the authorities have passed the consolidated order. The authorities can pass order in any form and this order, that Mr. M.K. Gautam has been posted at Bikaner on the revocation of the suspension, was in order and the applicant should be treated posted at Bikaner.

3. The second grievance is about the payment of salary for the suspension period. Mr. Mahendra Shah has cited before us the case of H.L. Mehra Vs. Union of India & Ors. reported in (1974) 4 SCC 396. We have gone through the case. Annexure R-1, order dated 5/9.3.93 has been passed

in this case by the disciplinary authority in terms of provisions of FR 54-B. The disciplinary authority ordered that the period of suspension of Mr. M.K. Gautam from 31.12.90 to 2.9.92 will be treated as non-duty period and the amount payable to him for this period in terms of the provisions of FR 54 B(5) would be the leave salary which he would have drawn under the leave rules applicable to him if he had been on half pay leave plus proportionate dearness allowance and any other compensatory allowance admissible thereon.

4. The question of illegality of the order (Annexure R-1) has not to be examined in the contempt petition. The intention of the party has to be looked into and the intention of the respondents in this case was that the order of the court has been complied with according to the rules. If the petitioner feels that the order is illegal, he can move the court through a fresh O.A. challenging the order Annexure R-1.

5. In the result, the contempt petition is rejected and the notice is discharged.

*B.B. MAHAJAN*

( B.B. MAHAJAN )  
Administrative Member

( D.L. MEHTA )  
Vice-Chairman