

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Order : 28-7-1992

RP 63/93 in OA 228/92

NAMAN SINGH SHEKHAWAT Vs. UNION OF INDIA & ORS.

O R D E R

This is a Review Petition filed by the petitioner against order dated 21.6.93 passed by the Division Bench consisting of Hon'ble Vice Chairman and Administrative Member Mr. O.P. Sharma in OA 228/92.

2. The petitioner had prayed ^{in the said OA} that the memorandum dated 1.5.92 (Annexure A-4) issued to the applicant initiating disciplinary proceedings against him may be quashed and that the suspension order dated 8.8.83 (Annexure A-1) may be revoked. During the hearing before this Bench it transpired that order of dismissal of the applicant had since been passed by the Disciplinary Authority. Therefore, this Bench had passed the following order on 21.6.93 :-

"Heard the learned counsel for the parties. Mr. M.B. Sharma submits that this application was filed prior to the order of dismissal passed by the Disciplinary Authority. May it be so, after the passing of the order of dismissal, the question of setting aside the charge-sheet does not survive, as it merges with the order of dismissal. The application is not maintainable for this reason."

3. The petitioner has now filed a Review Petition stating that in the order of the Tribunal nothing has been mentioned about the prayer regarding revocation of suspension. The petitioner has drawn our attention to a judgement of Ernakulam Bench of the Tribunal, wherein, according to the petitioner,

it was held that after the applicant in that case had been acquitted by the criminal court, the suspension ordered on account of his being involved in a criminal case automatically came to an end. This case is reported at (1990 (14) ATC 79). He has also referred to a judgement of Orrissa High Court reported at (1976 (1) SLR 310), wherein it was held that suspension during the pendency of criminal case did not subsists after the acquittal of the applicant in the said criminal case. If the suspension is proposed to be continued after acquittal in the criminal court, a fresh order of suspension is a must. Therefore, the applicant has prayed that since he was acquitted by the criminal court, his suspension automatically came to an end. He ^{has} further prayed that the respondents should be directed to treat the suspension order dated 8.8.83 as lapsed automatically on the acquittal of the applicant in the criminal case and ^{he should} be allowed all consequential benefits.

4. In this case, after the criminal case was filed against the applicant and after he was placed under suspension, disciplinary proceedings were also initiated against him. As a result of the disciplinary proceedings, the applicant was dismissed from service. This fact is not recorded in the OA because it is a subsequent development. By judgement dated 11.7.91 (Annexure A-3) ^{filed} in the OA, the applicant was acquitted of the criminal charges framed against him. Question to be decided now is whether on his acquittal by the court by order dated 11.7.91, the suspension order dated 8.8.83 automatically lapsed or came to an end.

5. Under Rule 10(5)(a) ^{of the CSS (CCA) Rules}, an order of suspension made or deemed to have been made under Rule 10 shall continue to remain in force until it is modified or revoked by the

authority competent to do so. Under Rule 10(5)(b), it is provided that where a Govt. servant is placed under suspension or is deemed to have been placed under suspension and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension, ^{me} for reasons to be recorded by him in writing direct that the Govt. servant shall continue to be under suspension until the termination of all or any of such proceedings. In the instant case, after the applicant was placed under suspension vide order dated 8.3.83 in connection with the criminal proceedings initiated against him and after he was acquitted by the court by order dated 11.7.91, the Disciplinary Authority could have passed another order continuing his suspension in connection with the disciplinary proceedings initiated against him by memorandum dated 1.5.92 which had been concluded only by the order of dismissal passed subsequently. However, at the same time, provisions of Rule 10(5)(a) are clear and categorical. No order of suspension either actually passed or deemed to have been passed can come to an end automatically. Such an order has to be specifically revoked or modified by the authority competent to do so. Since no such order revoking or modifying the order of suspension was passed and since subsequently the petitioner was dismissed from service, the order of suspension came to an end only with the passing of the order of dismissal. It could not have come to an end at any earlier date because no specific order revoking or modifying the order of suspension was passed. Moreover, in view of the fact that disciplinary proceedings were initiated against the petitioner by issue of memorandum dated 1.5.92, and between 11.7.91 when he was acquitted of the

criminal charge and 1.5.92 when the charge-sheet initiating disciplinary proceedings was served on him, the matter regarding initiation of disciplinary proceedings would have been under the consideration of the competent authority. Therefore, the continuance of suspension of the applicant after his acquittal by the court of law would not appear to be unjustified.

6. This Bench of the Tribunal did not consider it necessary to deal separately with the question of revocation of suspension because once the applicant was dismissed from service it was assumed that that issue become irrelevant, as the suspension order merged with the order of dismissal and the suspension came to an end. However, in view of the reasons given by us in the preceding paragraph, we hold that the order of suspension did not come to an end automatically on the applicant's acquittal by the court of law. Regardless of whether the continued suspension thereafter was justified or not, the suspension order remained in force until it was specifically revoked by the authority competent to do so. The judgments cited in the Review Petition are of no help, in view of the clear provisions of Rule 10(3)(a) of the C.S. (CCA) Rules. Therefore, the order dated 21.6.93 passed by this Bench does not call for any review as there is no mistake of fact or law therein. The Review Petition is therefore dismissed. No costs.

(D.P. SHARMA)
MEMBER (A)

(D.L. MEHTA)
VICE CHAIRMAN