

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR

O.A.No.204/93

Dt. of order: 28.7.93

R.D.Meena

: Applicant

Vs.

Union of India & Ors. : Respondents

Mr.Ajay Rastogi : Counsel for applicant

Mr.M.Rafiq : Counsel for respondents

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

Hon'ble Mr.P.P.Srivastava, Member (Adm.)

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

Heard the learned counsel for the parties. A stay order was passed by this Tribunal in O.A.No. 177/93 on 23.3.93 and the operation of the order dated 1.5.92 was stayed. Directions were also given for listing the case on 6.5.93.

2. After passing of the stay order a charge sheet has been issued on 23.6.93. Article-I of the charge sheet reads that Shri R.D.Meena while functioning as Sub-Regional Employment Officer during the year 1992-93 at Jaipur did not obey the order of his transfer. Second charge is that he brought political pressure through MLA/MPs and Shri Rajesh Pilot, Minister of State.

3. As far as the question of disobedience of the transfer is concerned, the applicant could have issued the Suspension order on account of not complying the order, however the suspension order cannot be issued after passing of the stay order on 23.3.93. The suspension order Annx.A-1 has been passed on 29.3.93 and the allegation is that he has not complied the transfer order. Second allegation is about the political pressure. The respondents have issued guide lines for placing a Government servant under suspension, which are as under:

Guiding principles for placing a government servant under suspension -

It has been decided that public interest should be guiding factor in deciding to place a government servant under suspension, and the disciplinary authority should have the discretion to decide this taking all factors into account. However, the following circumstances are indicated in which a disciplinary authority may consider it appropriate to place a Government servant under suspension. These are only intended for guidance and should not be taken as mandatory:

- i) Cases where continuance in office of the Government servant will prejudice the investigation, trial or any inquiry (eg. apprehended tampering with witnesses or documents);
- ii) Where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which the public servant is working;
- iii) Where the continuance in office of the Government servant will be against the wider public interest other than those covered by (i) and (ii) such as there is a public scandal and it is necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals, particularly corruption;
- iv) Where allegations have been made against the Government servant and the preliminary inquiry has revealed that a prima facie case is made out which would justify his prosecution or his being proceeded against in departmental proceedings, and where the proceedings are likely to end in his conviction and/or dismissal, removal or compulsory retirement from service."

4. In the light of the guidelines so issued, one of the consideration is public interest and the other is whether it is a case of major penalty and particularly dismissal, removal or compulsory retirement from service. There are some other contingencies also where a person can be suspended.

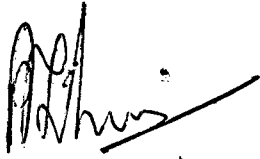
5. Taking into consideration ^{that} the transfer order had ^{been} already/stayed and the suspension order was passed.

after passing of the stay order, on the ground that he has not joined the new place of posting, order of suspension is not a just order and for that purpose it is necessary to take on record the Annexures submitted by the applicant particularly the charge sheet issued subsequent to the filing of the O.A., as at the time of passing of the order the suspension was on the ground of contemplated enquiry. Since the facts are before us, we take the charge sheet on record.

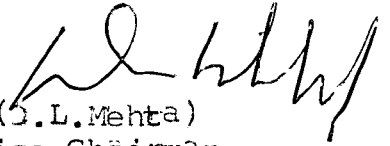
6. Now the question remains about the main O.A. No.204/93. Issuance of the charge sheet on the ground of non-joining the applicant at the place of posting particularly when the transfer order was stayed on 23.3.93 and the suspension order was issued on 29.3.93, it is not a just ground for putting a person on suspension.

7. Mr.M.Rafiq has argued the case with all his vehemence and submitted that how the transfer of the applicant was originally passed in May 1992 and subsequently extended. He has also tried to show some letters of threatening. On these grounds no charge sheet has been issued to the applicant. So we are of the view that only the ground on which the charge sheet has been served can be looked into and not the grounds which are not the part of the charge sheet. Mr.Rafiq, further submits that an administrative decision was taken on 24.3.93 though the orders were issued on 29.3.93. May it be so, the stay order had already been granted on 23.3.'93.

8. In the result, the O.A. is accepted and the suspension order Annexure:A-1 dated 29.3.93 is set aside and the applicant shall be reinstated with all consequential benefits if not suspended in any other case. Parties to bear their own costs.



(P.P. Srivastava)
Member (A)



(S.L. Mehta)
Vice Chairman.