

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

(13)

OA No. 465/94

Date of order: 10-5-96

D.T.Karamchandani

.. Applicant

Versus

Union of India and others

.. Respondents

None present on behalf of the applicant

Mr. S.S.Hasan, counsel for the respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

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

ORDER

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

In this application under Section 19 of the Administrative Tribunals Act, 1985, Shri D.T.Karamchandani has prayed that order dated 15th November, 1991 (Ann-A1) whereby the applicant was placed under suspension may be revoked and the respondents may be ordered to reinstate the applicant with full back wages and all consequential benefits. He has also prayed that the respondents may be directed to pay interest on back wages at the rate of 18% per annum till the date of payment.

2. The case of the applicant is that while was was working on the post of Assistant Superintending Archaeological Engineer, Archaeological Survey of India, Jaipur Circle, Jaipur, disciplinary proceedings were contemplated against him and, therefore, he was placed under suspension by order Annexure-A1 dated 15th November, 1991, under sub-rule (1) of Rule 10 of the CCS (CCA) Rules. He has not been served with any chargesheet so far. The suspension of the applicant has been prolonged for no fault of his. His subsistence allowance has been increased from time to time. The respondents are under a legal obligation to review the suspension order of the applicant and to revoke it if necessary. However, no such action has been taken

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and the applicant had remained under suspension since 15-11-1991. The respondents also did not take any decision on the representations of the applicant made on 1-1-92, 26-8-92, 28-7-93 and 6-10-93 regarding revocation of his suspension. The applicant had earlier filed an OA No. 161/94 against the order of suspension but the Tribunal had dismissed the OA vide order dated 5-4-94 (Annexure A8) with the direction that the applicant may file an appeal to the concerned appellate authority against the order of suspension. The applicant accordingly filed an appeal to the President of India on 12-4-1994 (Annexure A9).

3. However, according to him, before he was placed under suspension, a criminal case was registered against him by the C.B.I. under the Prevention of Corruption Act on the ground of collecting assets dis-proportionate to the known sources of income. The C.B.I. has also filed a chargesheet against the applicant in the court of Special Judge, C.B.I./S.P.E. cases, Jaipur in April, 1993. Since the filing of the charge-sheet before the Court, no steps have been taken to commence the trial. Thus the criminal case will also take a long time to be decided. The subsequent actions taken by the C.B.I. for returning the assets etc. seized from the applicant shows that the C.B.I. itself of the view that the case was not of a serious nature. There are several circulars of the Govt. of India that orders of suspension should be revoked from time to time and if necessary, these should be revoked. The applicant, therefore, prayed that the applicant's suspension being unjustified should be revoked, particularly when the appellate authority has also failed to dispose of the applicant's appeal filed in pursuance of earlier order of the Tribunal.

4. The respondents in their reply have stated that the allegation of possession of dis-proportionate assets

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by the applicant was found to be prima facie true and accordingly sanction for prosecution of the applicant was accorded by the competent authority. No separate chargesheet in disciplinary proceedings has been filed against the applicant. The order placing the applicant under suspension in these circumstances is in ~~the~~ public interest as the applicant by virtue of his official position may tamper with records and influence the witnesses. The applicant's suspension was reviewed from time to time ~~but it~~ cannot be revoked since a criminal case is ~~also~~ pending against the applicant, in which the charges against the applicant are serious. The appeal filed by the applicant in pursuance of the direction of the Tribunal was disposed of by the Department vide order dated 29-10-93 and the applicant was informed that his suspension cannot be revoked. Returning of the assets ~~seized~~ etc. from the applicant by C.B.I. does not help his case in any way. The applicant has been placed under suspension in accordance with the rules and he is not entitled to any reliefs claimed.

5. None is present on behalf of the applicant. We have heard the learned counsel for the respondents. The learned counsel for the respondents has drawn our attention to a Misc. Application No. 135/96 filed by the applicant on 26-3-96 in which the applicant had prayed for early hearing of the OA. In this Misc. Application, the applicant has stated that he retired from service on 31-5-1995 and his retirement benefits have been withheld. It is for this reason that the applicant had sought early hearing of the application. The learned counsel for the respondents states that

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since the applicant has already retired from service, the question of revocation of his suspension does not arise. However, on his retirement, the applicant shall be entitled to provisional pension till such time as the criminal case pending against him is finally decided by the Court of Law. but no gratuity etc. would be payable to him.

6. We have considered the matter carefully. Since the applicant has, on his own admission, already retired from service, there is not point in ordering revocation of suspension. Therefore, the prayer regarding revocation of his suspension does not survive. However, the applicant shall be entitled to provisional pension from the date of his retirement till such time as the criminal case pending against him is finally decided by the Court of Law. He shall also be entitled to the amount of Provident Fund to his credit to be paid back to him, if it has already not been paid to him.

7. The OA is disposed of accordingly with no order as to costs.

(O.P.Sharma)

Administrative Member

C. Krishna
(Gopal Krishna)
Vice Chairman