

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR,
JABALPUR

Original Application No. 540 of 2004

Jabalpur, this the 29th day of March, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Ms. Sadhna Srivastava, Judicial Member

Dipak Mahi, (Civilian Motor Driver)-II,
S/o. Shri Manoranjan Mali, Date of Birth-
12.8.1963, R/o. Bailpura Bengali Colony,
C/o. BN Haldar, Near Hanuman Mandir,
Richhai, Jabalpur.

.... Applicant

(By Advocate – Shri V. Tripathi)

V e r s u s

1. Union of India, through its Secretary,
Ministry of Defence (DGQA)
New Delhi.
2. The Director General Quality Assurance,
South Block, DHQ Post, New Delhi.
3. The Sr. Quality Assurance Officer,
Sr. Quality Assurance Establishment (Armament),
Gun Carriage Factory, Jabalpur.

.... Respondents

(By Advocate – Shri P. Shankaran)

O R D E R (Oral)

By Ms. Sadhna Srivastava, Judicial Member –

By means of this Original Application the applicant has challenged the suspension order dated 10th August, 2002 (Annexure A-1) on the ground that the applicant's suspension automatically became invalid in absence of any consideration and extension by the review committee as per the operation of the sub rules (6) and (7) of Rule 10 of CCS (CCA) Rules, 1965 and accordingly he is entitled to get all the consequential benefits as if the suspension has automatically become invalid as per the

provisions of CCS (CCA) Rules. He has submitted that the suspension order was followed by a charge sheet dated 7th September, 2002. Thereafter, vide order dated 10th October, 2002 the Presenting Officer was appointed and vide order dated 10th October, 2003 the Enquiry Officer was appointed by the respondent No. 3. Despite, the appointment of the Presenting Officer and the Enquiry Officer no sitting of the departmental enquiry has taken place. After 90 days from the date of suspension the applicant's subsistence allowance was enhanced from 50% to 75% by the respondents. The applicant has categorically pleaded that after reviewing the applicant's subsistence allowance aforesaid after 90 days from the date of suspension, no further review has been made. The applicant preferred series of representations for revocation of his suspension but the same are still pending and no decision has been taken by the respondents yet now.

2. The respondents have contested the claim of the applicant by filing a detailed counter reply. In the counter reply the respondents have stated that as per the prescribed procedure laid down in CCS (CCA) Rules, the competent authority has reviewed the case of the applicant and decided to keep him under suspension, considering the gravity of the misconduct committed by the him and on apprehension that he will tamper with the evidence and intimidate the witnesses if the suspension is revoked and he reinstated into service. The learned counsel for the respondents has also submitted that the authority has reviewed the suspension order and enhanced the subsistence allowed from 50% to 75%.

3. We have heard the learned counsel for the parties. We have seen the rules and the relevant provisions i.e. sub rules (6) & (7) of Rule 10 of the CCS (CCA) Rules, 1965 are reproduced below for ready reference :

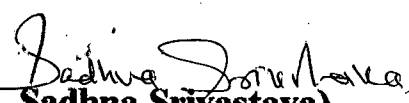
“(6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority which is competent to modify or revoke the suspension before expiry of ninety days from the date of order of suspension on the recommendation of the Review Committee constituted for the

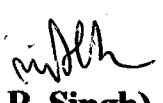
purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.

(7) Notwithstanding anything contained in sub-rule (5)(a), an order of suspension made or deemed to have been made under sub-rule (1) or (2) of this rule shall not be valid after a period of ninety days unless it is extended after review, for a further period before the expiry of ninety days."

A reading of these rules clearly shows that it is obligatory for the respondents to constitute a review committee and consider the case of the applicant's revocation/extension of suspension before expiry of 90 days from the date of suspension. It has further been made obligatory that the subsequent reviews shall be made before expiry of the extended period of suspension and the extension of suspension shall not be for a period exceeding 180 days at a time. In the instant case the applicant has categorically submitted that no review committee has been constituted for considering the question of revocation/continuance of his suspension. In these circumstances we held that the respondents have failed to consider the question of revocation/extension of suspension within the time stipulated under sub rules (6) & (7) of Rule 10 of CCS (CCA) Rules. Hence, we quash and set aside the suspension order dated 10th August, 2002 (Annexure A-1) and direct the respondents to reinstate the applicant forthwith. So far as the arrears of difference of wages are concerned, the same will be subject to the outcome of the departmental proceedings pending against him.

5. The Original Application is allowed with no order as to costs.


(Ms. Sadhna Srivastava)
Judicial Member


(M.P. Singh)
Vice Chairman