

20 - 05 - 2011

OA. 509/2010

Applicant present in person.

Mr. V.D Sharma ldt. counsel for respondents.

Arguments heard, The OA stands
disposed of by a separate order.

Anil Kumar
(Anil Kumar)
Member (A)

K. S. Rathore
(Justice K.S. Rathore)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 20th day of May, 2011

Original Application No.509/2010

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Ravi Shankar Srivastava, IAS
s/o late Shri S.P.Srivastava,
r/o N-9 Gandhi Nagar, Jaipur
Secretary, Human Rights Commission
Rajasthan, Secretariat,
Jaipur

.. Applicant

(Applicant present in person)

Versus

1. Union of India
through Secretary,
Department of Personnel, Public Grievances
and Training,
North Block,
New Delhi.
2. State of Rajasthan
through Principal Secretary,
Department of Personnel,
Secretariat,
Jaipur

.. Respondents

(By Advocate: Shri V.D.Sharma)

ORDER (ORAL)

The applicant is an IAS officer of 1995 batch of Rajasthan cadre and in the Super Time Scale of IAS. He was posted as Member of Board of Revenue after promotion to Super Time Scale. The State Anti Corruption Bureau (ACB) registered two FIRs against the applicant on 10.6.2004 as FIR No.110/04 and FIR No.109/04 in connection with two decisions delivered by the applicant on the basis of some source information under PC Act, 1988. The Secretary, Government of Rajasthan, Department of Personnel (DOP) issued a suspension order under Rule 3(3) of All India Service (Discipline and Appeal) Rules 1969 [AIS (D&A) Rules] on 12.6.2004 with the approval of the DOP Minister. The suspension order has been challenged by the applicant by way of filing OA No. 2286/2005 before this Tribunal. The Tribunal vide its order dated 24.1.2006 directed to reinstate the applicant forthwith on the ground that no charge sheet was filed in the court within one year of registration of FIR.

2. Despite the said order passed by this Tribunal, the respondents extended the suspension of the applicant and aggrieved by this, the applicant moved a Contempt Petition which was decided by this Tribunal on 2.5.2006 with direction to respondent No.2 to reinstate the applicant, if no charge sheet is filed by 31.5.2005 but respondent No.1 granted prosecution sanction.

3. The applicant also filed OA No.718/2006 before this Tribunal in March, 2006 challenging the suspension order dated 1.3.2006. The



respondent No.2 in the meanwhile extended the suspension order after 180 days on 28.8.2006 contrary to the provisions of Rule 3(8) (d) of AIS (D&A) Rules, 1969 and the same was challenged by the applicant before this Tribunal by filing OA No.2075/2006 and vide order dated 25.4.2007 the Tribunal directed the respondents to reinstate the applicant in service w.e.f. 1.3.2006 but the suspension was again extended by the Secretary, DOP, Government of Rajasthan in February, 2007 against which the applicant filed OA No.996/2007 which was dismissed by this Tribunal on 3.3.2008 against which the applicant preferred a D.B.Civil Appeal before the Hon'ble High Court. The High Court vide its order dated 17.12.2009 disposed of the petition by observing that the order of extension dated 15.11.2009 issued by the DOP is not in accordance with rules. Pursuant to the direction issued by the Division Bench of High Court Bench, Jaipur, suspension of the applicant was revoked and the applicant was reinstated in service and posted as Secretary, Human Rights Commission.

4. By way of the present OA, the applicant claims relief of promotion as Principal Secretary grade w.e.f. 31.12.2009 and prays that benefit of pay, increments and scale may be directed to be restored in view of the Hon'ble High Court order dated 17.12.2009 and subsequent dismissal of State SLP by Hon'ble Supreme Court on 12.7.2010.

5. It is not disputed that prior to filing of this OA, an appeal was filed before the Government of India on 27.7.2010 against the order of the State Government not granting benefit of Principal Secretary



Grade to the applicant w.e.f. 31.12.2009 and refusal to grant benefit of 6th Pay Commission, which is pending consideration. Without waiting for decision on the appeal, the applicant preferred this OA. As such, as per proposition of law, this OA is premature.

6. With regard to the specific query made to the applicant, who appeared in person, that since he has availed the remedy by way of filing appeal and the same is pending consideration before the Government of India and without exhausting the remedy which has already been availed, this OA deserves to be dismissed as premature. In reply to the query made by this Tribunal, the applicant submits that the appeal is pending since 27.7.2010 and likely to take some more time and this OA has been filed on 26.11.2010. Since the Government of India is not deciding the appeal, therefore, he invoked jurisdiction of this Tribunal by way of filing the present OA.


7. We are not at all impressed with the submission so made by the applicant. It is evident that the applicant filed appeal before the Government of India only on 27.7.2010 and within a period of less than six months, the OA has been filed. We are also not impressed with the submission made on behalf of the applicant that the appeal is not decided within six months, as such, he is entitled to file the present OA.

8. Having considered the submissions made by the applicant without entering into merit of the case, we deem it proper in the interest of justice to direct the respondent Central Government to decide the appeal filed by the applicant expeditiously.

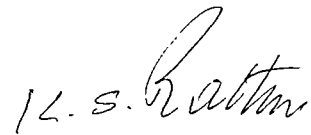


Accordingly, respondent Central Government is directed to decide appeal of the applicant filed on 27.7.2010 strictly in accordance with the provisions of law by a speaking order expeditiously and not later than two months from the date of receipt of copy of this order.

9. With these observations, the OA stands disposed of with no order as to costs.



(ANIL KUMAR)
Admv. Member



(JUSTICE K.S.RATHORE)
Judl. Member

R/