

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 100/2277/2016

New Delhi, this the 24th day of July, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri G.S. Negi,
S/o Late Shri Gian Singh Negi,
Aged about 56 years,
Under Secretary
Now re-designated as Assistant Director,
All India Council for Technical Education
7th Floor, Chanderlok Building, Janpath
New Delhi
R/o 104, Second Floor, Savita Vihar
Delhi-110092Applicant

(Through Shri Sanjiv Joshi with Ms. Meenakshi Mohan, Advocates)

Versus

1. Union of India
Through It's Secretary,
Ministry of Human Resource Development,
Shastri Bhawan, New Delhi
2. All India Council for Technical Education
Through It's Chairman,
7th Floor, Chanderlok Building,
Janpath, New Delhi-110001Respondents

(Through Shri Gyanendra Singh, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant is working as Assistant Director in All India Council for Technical Education (AICTE) – second respondent herein. He was proceeded against in a case instituted by the CBI as a sequel to a raid. Thereupon, he was placed under suspension on 25.11.2009. OA 2937/2010 was filed by him challenging the order of suspension. However, since the order of suspension was revoked on 13.10.2010, the OA was dismissed with liberty to challenge the order of suspension. It is stated that on the same day the said order of suspension was revoked, another order of suspension was passed.

2. The applicant states that for the period during which he was under suspension between 25.11.2009 and 13.10.2010, he was paid full salary whereas for the second spell of suspension, he was not paid such amount. He made a representation to the second respondent in this regard. Through order dated 4.06.2015, the applicant was informed that the question as to whether he can be paid full salary allowances for the period of suspension would arise only on culmination of criminal and disciplinary proceedings. The same order has been challenged herein.

3. It is pleaded that F.R. 54-B which governs the service conditions of the applicant, stipulates the manner in which pay and allowances shall be paid to an employee after the order of suspension is revoked and the impugned order does not comply with that provision.

4. The respondents in their reply have stated that criminal case instituted against the applicant is still pending and suspension was revoked only on account of delay in disposal of criminal case. They further stated that the question as to in what manner the period of suspension has to be treated and the quantum of emoluments payable to the applicant for that period, would arise only on conclusion of proceedings.

5. The applicant was kept under suspension for two spells in relation to the criminal case which is now pending. The second respondent is virtually helpless in the context of the disposal of the criminal case. FR 54 deals with the situation where an employee who is dismissed or removed from service, is reinstated. The rule mandates that the manner in which the period during which the employee was out of duty has been treated must be mentioned in the order of reinstatement. Rule 54-B deals with the cases of reinstatement of employees, who are placed under suspension but were reinstated thereafter. Here again, the reading of rule in its entirety stipulates the manner in which the period of suspension shall be treated as

also the quantum of allowances payable for that period, obviously on conclusion of disciplinary proceedings or criminal case, as the case may be.

6. Admittedly, the criminal case is still pending against the applicant herein. In **Basant Ram Jaiswal Vs. Area Manager (North) Mahanagar Telephone Nigam Ltd., Bombay Telephones and another**, (1993) 24 ATC 641, this Tribunal dealt with the consequences flowing from sub-rules 5 and 6. However, the purport of proviso to sub-rules 3, and of sub-rule 6 were not taken note of. They read as under:

"F.R. 54-B.

(3) Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the Government servant shall, subject to the provisions of sub-rule (8) be paid the full pay and allowances to which he would have been entitled, had he not been suspended:

Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government servant, it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government servant shall be paid for the period of such delay only such amount (not being the whole) of such pay and allowances as it may determine.

xxxx xxxx xxxx xxxx

(6) Where suspension is revoked pending finalization of the disciplinary or the Court proceedings, any order

passed under sub-rule (1) before the conclusion of the proceedings against the Government servant, shall be reviewed on its own motion after the conclusion of the proceedings against the Government servant, shall be reviewed on its own motion after the conclusion of the proceedings by the authority mentioned in sub-rule (1) who shall make an order according to the provisions of sub-rule (3) or sub-rule (5), as the case may be."

7. From perusal of above provisions, it is clear that it is only when the disciplinary proceedings are concluded, that a final decision needs to be taken as regards manner in which the period of suspension shall be treated and the quantum of emoluments to be paid.

8. The impugned order accords with the specific provisions of law. We do not find any basis to interfere in the impugned order. The OA is dismissed. However, we leave it open to the applicant to seek remedy depending upon the outcome of the criminal case, or the disciplinary proceedings. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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