

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA 1176/2003

New Delhi, this the 19th day of December, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. S.A. Singh, Member (A)

Sh. B.K. Srivastava  
S/o Late Sh. S.S. Lal  
R/o No. 143, Arjun Nagar  
Safdarjung Enclave  
New Delhi - 110 029.

...Applicant

(By Advocate Sh. V.S.R. Krishna  
with Sh. S.N. Anand)

V E R S U S

1. Govt. of NCT of Delhi through  
The Chief Secretary  
Govt. of NCT of Delhi  
Players Building  
IP Estate, New Delhi.
2. The Director (Employment)  
Directorate of Employment  
Govt. of NCT of Delhi  
No. 2, Battery Lane  
Delhi.

...Respondents

(By Advocate Sh. Ram Kaur)

Q R D E R (ORAL)

Mr. Justice V.S. Aggarwal,

When the matter was argued, it was pointed to the learned counsel for the applicant that so far as quashing of the order initiating second departmental proceedings is concerned, its a distinct relief from the relief for treating the entire period of suspension as period spent on duty. Learned counsel thereupon fairly conceded that he withdraws the said prayer but prays for liberty to file a fresh petition, if so advised, on the said cause. Allowed as prayed.

2. So far as the prayer for quashing of the subsequent disciplinary proceedings is concerned, it is dismissed with liberty to file a separate petition, if so advised.

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3. The applicant was placed under suspension on 3-11-1983. On 29-1-1992, a chargesheet for major penalty proceedings was served on the applicant. The suspension was revoked on 4-8-1997. We are informed, as is apparent from the record also, that the applicant was exonerated of the charges and the disciplinary authority on 14-12-2001 on consideration of the report of the enquiry, had exonerated the applicant from the charges levelled against him. However, pertaining to the treatment of his suspension period, following order has been passed :-

"Orders regarding treatment of his suspension period from 3-11-1983 to 4-8-1997 are issued separately with the matter concerning Charge-sheet under Rule-14 served upon him vide Memorandum No.F.21(14)/97/14295 dated 21-11-1997."

The applicant preferred an appeal which has been dismissed on 9-4-2003 by the appellate authority.

4. The petition has been contested.

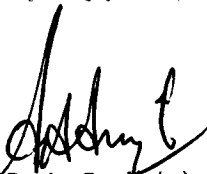
5. The sole prayer made by the learned counsel for the applicant is that once the applicant has been exonerated of the charges that were served on 9-1-1992 and he was reinstated on 4-8-1997, the period of suspension could not be linked with some other departmental proceedings which has been served on 21-11-1997.

6. We find that the said argument of the learned counsel cannot be ignored and has substance. The subsequent disciplinary proceedings were served on 21-11-1997. It cannot have retrospective effect. This is for the reason, the applicant was suspended and remained suspended from 3-11-1983 to 4-8-1997


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because of the earlier disciplinary proceedings. Once he has been exonerated, necessarily the order has to be passed pertaining to his suspension period in accordance with law. It cannot be connected with subsequent disciplinary proceedings which has been initiated.

7. Keeping in view the aforesaid, the petition, qua this relief, is disposed of with the direction that the disciplinary authority, on the face of what has been observed above, will pass a fresh order pertaining to the period from 3-11-1983 to 4-8-1997 in accordance with law.

  
(S.A. Singh)  
Member (A)

/vikas/

  
(V.S. Aggarwal)  
Chairman