

Central Administrative Tribunal, Principal Bench

Original Application No. 2209 of 2003

New Delhi, this the 29th day of March, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. R.K. Upadhyaya, Member (A)

Dr. Raghuraj Singh Chauhan,
Assistant Director (Exhibition Cell)
National Museum, Janpath,
New Delhi-1

....Applicant

(By Advocate: Shri R.K. Singh)

Versus

Union of India: through

1. The Secretary,
Department of Culture,
Ministry of Tourism and Culture,
Government of India,
Shastri Bhawan, New Delhi-1
2. Dr. R.D. Choudhury,
Director General
National Museum,
Janpath, New Delhi-1
3. Shri K.N. Srivastava,
(Former Joint Secretary (DOC),
Managing Director,,
Karnataka Power Transmission Corpn. Ltd.,
Bangalore, Karnataka
4. Shri Sanjiv Mittal,
Director,
Ministry of Tourism and Culture,
Department of Culture,
Shastri Bhawan, New Delhi-1

....Respondents

(By Advocate: Shri Rajinder Nischal)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

Applicant Dr. Raghuraj Singh Chauhan by virtue of the present application seeks the following reliefs from this Tribunal:

"8.1 this Lt. Tribunal may be pleased to declare contemplation of a disciplinary proceeding against the Applicant and suspension order passed by Respondent No.1 dated 3/9th December, 2002, as illegal, arbitrary and

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malafide and quash the same.

8.2 this Ld. Tribunal may be pleased to declare Memorandum dated 5th February, 2003 proposing to hold an inquiry against the Applicant under rule 14 of the CCS (CCA) Rules, 1965, as illegal, unlawful, untenable, arbitrary and impermissible and may quash the same."

2. During the course of submissions, it was pointed by the learned counsel for official respondents that the disciplinary proceedings pending against the applicant have proceeded a longway and presently are fixed for evidence of the applicant in defence. Learned counsel for the applicant, on the contrary, informed us that one of the witnesses of the department have yet to be cross-examined. This fact is admitted in terms that after the evidence was complete, the applicant applied for permission to cross-examine one of the witnesses and that request has been allowed.

3. Learned counsel for the applicant wanted to assail the chargesheet that has been served.

4. In face of what has been recorded above, we deem it unnecessary to express ourselves on the merits of the matter. This is for the reason that any expression of opinion, at this stage, would indeed be embarrassing for either party.

5. When the disciplinary proceedings have already gone a longway which we have referred to above, it is indeed not appropriate to exercise the discretion in the facts of the present case to entertain the application on its merits. The applicant may take all legal and factual

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pleas if the need arises at the appropriate stage.

6. At this stage, the learned counsel for the applicant contended that the applicant has unnecessarily been kept under suspension. Keeping in view what is recorded above, particularly when witnesses have been examined, there is little chance of tampering with the same and the applicant has already undergone this agony for about 1-1/2 years. He particularly referred to us the notification that has been issued on 23.12.2003 and on the strength of the same, urges that the applicant necessarily has to be reinstated.

7. The notification issued which amends sub-rule 5 and 6 which have now been inserted in rule 10 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 read as under:

"(6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority 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, an order of suspension made or deemed to have been made under sub-rules (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."

8. Perusal of the same clearly shows that the said notification would come into play after expiry of 90 days from the date of its publication i.e. 23.12.2003. It is

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thereafter that sub-rule 6 and 7 which have now been inserted shall come into force. Necessarily, the respondents have to consider the case of the applicant within that period prescribed i.e. 90 days of coming into force of the abovesaid notification. In default, necessary consequences can ensue.

9. At this stage, the said period has not expired. Consequently, as for the present, even this contention need not be gone into. On the question if the applicant has to be continued under suspension or not, we direct that respondents will consider all the necessary facts and circumstances including continuous suspension referred to above and pass an appropriate speaking order. O.A. is disposed of.

10. At this stage, learned counsel for the applicant states that concerning his continued suspension, the applicant may be permitted to file a supplementary representation within a week to which the respondents' counsel has no objection. Allowed as prayed.

R.K. Upadhyaya

(R.K. Upadhyaya)
Member (A)

V.S. Aggarwal

(V.S. Aggarwal)
Chairman