

Central Administrative Tribunal, Principal Bench

Original Application No.2797 of 2003

New Delhi, this the 20th day of November, 2003

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

Shri Balbir Singh,
S/o Shri Kapoor Singh,
R/o B-96, Ramprastha Colony,
Ghaziabad (U.P.).

..... Applicant

(By Advocate: Shri S.D. Raturi)

Versus

1. The Lt. Governor,
Rajpur Road Delhi.
2. Govt. of NCT of Delhi,
Through its: Chief Secretary,
Delhi Secretariat,
IP Estate, New Delhi-2
3. The Secretary Irrigation & Flood Control
Govt. of NCT of Delhi,
5/9, Under Hill Road,
Delhi.
4. The Chief Engineer (I & F.C.)
Government of NCT of Delhi
4th Floor, I.S.B.T., Delhi

..... Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

By virtue of the present application, the applicant seeks quashing of the order of 21.3.2001 whereby he was placed under suspension. The order suspending the applicant reads:

"Whereas a case against Shri Balbir Singh, Executive Engineer Civil Division No.III, I&FC Department has been filed by the Central Bureau of Investigation vide FIR No.RC-DA1-2001-A-0021 for demanding and accepting bribe.

AND WHEREAS the said Shri Balbir Singh EE (Civil) was detained in judicial custody on 27.02.01 for a period exceeding forty-eight hours.

NOW, THEREFORE, LT. Governor, Delhi hereby orders that the said Shri Balbir Singh, Executive Engineer (Civil) is deemed to have been suspended with effect from the date of detention i.e. 27.02.01 in terms of sub-rule (2) of Rule 10 of the Central Civil Services (Classification, Control and Appeal)

Rules, 1965 and shall remain under suspension until further orders.

It is further ordered that during the period that this order shall remain in force, the Headquarters of Shri Balbir Singh, Executive Engineer shall be office of Chief Engineer(I&F), I.S.B.T. Building, 4th Floor, Kashmere Gate, Delhi and the said Shri Balbir Singh shall not leave the Head Quarter without obtaining the prior permission of the competent authority.

He shall be allowed subsistence allowance as per rules during his period of suspension."

2. To keep the record straight, we deem it necessary to mention that the applicant had been arrested by the C.B.I. with respect to an offence punishable under Section 7 of the Prevention of Corruption Act. He was placed under deemed suspension and has continued to be under suspension since then.

3. Learned counsel for the applicant, to our query, informed us that a report under Section 173 of the Criminal Procedure Code has been submitted to the ^{Special} ~~Sub~~ Judge but the charge as yet has not been framed against the applicant. It has been asserted that the applicant has remained under suspension for more than two years. There is inordinate delay in this regard and, therefore, he is made to suffer. Consequently, he prays that a direction should be issued to reinstate him by quashing the order suspending him. In support of his claim, the learned counsel has drawn our attention to large number of precedents to contend that inordinate delay or continuing the suspension order is improper.

4. Before venturing into the precedents quoted at the Bar, we deem it necessary to state the broad principle

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that unless a particular judgement lays down a particular principle of law, it cannot be a binding precedent.

5. Strong reliance is being placed on the decision of the Supreme Court in the case of O.P. Gupta vs. Union of India and ors., AIR 1987 S.C. 2257. In the cited case, the suspension had continued for 11 years and departmental proceedings were pending for 20 years. It was these facts that prompted the Supreme Court to interfere and it held that when there is inordinate delay, it would be improper to continue with the suspension or the proceedings in this regard. As would be noticed hereinafter, it is not so in the facts of the present case.

6. A decision rendered by this Tribunal in the case of Kanwarpal Singh vs. Union of India and others, (1989) 11 A.T.C. 54 also deals with somewhat similar situation. In the cited case, the departmental proceedings were started but they were not making a headway. The representation had been rejected and this Tribunal had directed that the applicant should be reinstated.

7. Similarly in the case of J.K. Varshneya vs. Union of India and ors., (1988) 8 A.T.C. 1, this Tribunal relied upon the often quoted principle that if a Government servant is placed under suspension for indefinite period, it would be against the public interest.

8. We do not dispute the said proposition because if there is inordinate delay in conducting the departmental

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proceedings, this Tribunal in the facts of a particular case may interfere.

9. What are the facts of the present case? Herein, the applicant had been placed under suspension keeping in view the pending criminal proceedings against him. As yet, the charge has not been framed by the court of competent jurisdiction nor any opinion has been expressed in this regard. In normal circumstances, it is within the domain of the disciplinary authority to revoke or withdraw the order of suspension. In judicial review, this Tribunal would only interfere on well settled principles one of them being when there is inordinate delay in completion of departmental proceedings.

10. In the present case, the applicant is before a court of competent jurisdiction pertaining to assertions which are serious because of the nature of the offence purported to have been committed. We hasten to add that we are not expressing on the merits of the matter but the gravity of offence and the totality of facts cannot be lost sight of and, therefore, it would be entirely for the disciplinary authority to consider these facts rather it being a case for judicial review.


11. Resultantly, we dispose of the present application with the following directions:


(a) as at present, there is no scope for interference; and

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(b) the disciplinary authority, in accordance with
law, may conduct the periodic reviews
~~prescribed~~

Issue DASTI.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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