

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**O.A. No. 2863/2017
M.A. No. 3002/2017**

New Delhi, this the 26th day of November, 2019



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Ashish Anan
(DYSP under suspension)
(Group B – DANIPS)
S/o Shri Rameshwar Dayal Meena
Aged about 32 years
R/o E-Type Quarter, Near Collectorate
Dholar, Moti Daman-396220
U.T. of Daman & Diu.

.. Applicant
(By Advocate : Ms. Sriparna Chatterjee)

Versus

Union of India
Through Joint Secretary (UT)
Ministry of Home Affairs
Jai Singh Marg
Hanuman Road Area
Connaught Place
New Delhi-110001.

.. Respondent
(By Advocate : Shri Rajeev Kumar)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant is an Officer of Delhi, Andaman & Nicobar Islands Police Service (DANIPS) and at present, he is posted at Daman & Diu. FIR No.169/2016 was lodged



in the Nani Daman Police Station, on the basis of a complaint/representation dated 16.10.2016, said to have been submitted by a Constable, by name Shri Pagnesh Patel. It is to the effect that on 26.09.2016, a man and woman were found in the Beach and suspecting them to be not wife and husband, they were brought to the Police Station. It is stated that the applicant came to the Police Station at that time, and after discussing with them, he let off both the persons. The Constable stated that later on, he came to know that a sum of Rs.6,00,000/- was collected from the man, by name Shri Mahepal Singh Rawat; and it has been shared by the applicant and Head Constable Jatin Dhankar.

2. After registration of the FIR, the applicant was arrested on 19.10.2016, but was later released on bail on 24.10.2016. Taking the factum of the arrest of the applicant into account, the Appointing Authority (AA) passed an order dated 02.11.2016 placing him under suspension. That was extended from time to time. Challenging the same, the applicant filed this O.A.



3. The applicant contends that the Constable in question, who submitted the complaint on 16.10.2016, was in fact suspended by the SP on 10.10.2016 and that the complaint was filed under duress. It is also stated that the complaint was got manufactured out of vindictiveness by the Superior of the applicant and nothing incriminating was found against him. It is stated that the suspension was continued for the past four years, without any basis.

4. Respondents filed a counter affidavit opposing the O.A. It is stated that the allegations made against the applicant is serious in nature and with a view to ensure that the applicant does not meddle with the prosecution, the suspension was being continued. The trial of the case is said to be in progress and that departmental inquiry was initiated against the applicant on 11.01.2017.

5. We heard Ms. Sriparna Chatterjee, learned counsel for the applicant and Shri Rajeev Kumar, learned counsel for the respondents, in detail.

6. The challenge in this O.A. is more to the extensions, than the order of initial suspension dated 02.11.2016.

Normally, the Courts and the Tribunals would be slow to interfere with the order of suspension. Much would depend upon the gravity of the allegation and the duration of the suspension.



7. The basic purpose of suspending of an employee is to ensure that he does not meddle with the investigation of the criminal case or the inquiry in the departmental proceedings. When the employee is arrested by the Police and his detention is for a period exceeding 48 hours, the AA has no alternative, except to place him under suspension. However, the suspension is required to be reviewed from time to time. In case, the criminal trial takes a long time or if the allegation is not so grave, the AA has to strike a balance between the need to extract work from the employee, on the one hand, and paying him huge subsistence allowance, without extracting work, on the other hand.

8. There are circulars issued in the Administration to the effect that in case the suspension is on the basis of arrest of an employee, normally it shall not be extended beyond two years. The objective is to ensure that the

Administration does not suffer. It is particularly so, when the employee concerned is occupying a fairly higher position in the administration.



9. In the instant case, the plea of the applicant that the letter dated 16.10.2016 submitted by the Constable, which in turn constituted the basis for an FIR and initiation of proceedings against him; was obtained under duress, cannot be brushed aside. The reason is that, the Constable was placed under suspension on 10.10.2016 and the complaint came into existence on 16.10.2016. Added to that, it was filed 15 days after the so called incident. There again, the allegation is not that he has seen anyone receiving the bribe; nor he claimed any direct information about that. The nature of allegation made by him is evident from the last two paragraphs of the complaint. They read as under:

“Thereafter, as I was having court date I attended Hon’ble CJM Court at 10 o” clock and thereafter from staff I learnt that by threatening Mahepal Singh and by making him to make phone call from his mobile to someone and through Angadia F Vapi HC Jatin Dhankar went and collected Rs.6,00,000/-.

I am subordinate to Dy. Sp. (Crime) and hence due to fear I could not inform said incident to anyone. As per my belief Dy. Sp. (Crime) Ashish Anan, HC Jatin

Dhankar and Nena Gupta alias Kirti Sharma jointly conspired by hand in glove and threaten Mahepal Singh Rawat and extract Rs.6,00,000/- from him. Therefore, it is my complain against aforesaid person as per law."



10. The question as to whether the allegation made in those two paragraphs can be proved by the prosecution is a different matter, and it is for the concerned Court to decide. However, a *prima facie* reading of the same discloses that there was no direct imputation of any illegality against the applicant and it is purely on the guess work. We have made these observations only in the context of examining the decision for extending the suspension for the past four years. An Officer in the cadre of SDPO cannot be continued under suspension for such a long time, on the basis of allegations which are reproduced above.

11. We are of the view that it would be in the interest of the Administration also to reinstate the applicant, so that the public money is not wasted by paying subsistence allowance, without extracting any work. The absence of an Officer of that rank from duty, that too, in a Department like Police, would not be in public interest.

12. We, therefore, allow the O.A. and direct the respondents to reinstate the applicant in service forthwith. This, however, shall be without prejudice to the departmental and criminal proceedings, that are pending against him. If the Administration is of the view that the continuance of the applicant at the present place is objectionable, it would be open to them to transfer him to any appropriate place. The manner in which the period of suspension shall be treated, would depend upon the outcome of the departmental proceedings. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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