

Union of India and Others

Vs

Udai Narain

Civil Appeal No. 1829 of 1998

(Dr. A. S. Anand, S. R. babu JJ)

30.03.1998

ORDER

1. Leave granted.

2. The respondent was serving as an Additional Commissioner of Central Excise, Lucknow, when he came to be arrested on 8-11-1993 on the allegation that he had demanded and accepted a bribe of rupees 2 lakhs. He was released on bail on 23-11-1993. While he was in custody, he was placed under suspension on 18-11-1993 under Rule 10(1)(b) of the CCS (Classification, Control and Appeal) Rules, 1965 on the ground that he had been arrested by the Central Bureau of Investigation and the case was under investigation. The respondent filed OA No. 383 of 1994 before the Central Administrative Tribunal at Lucknow seeking revocation of the order of suspension. That application came to be dismissed on 3-2-1995. Review petition filed by the respondent was also dismissed on 31-7-1995. Since the trial in the case had not commenced and the investigation was already over, the respondent filed yet another application being OA No. 79 of 1996 for revocation of the order of suspension. The application was resisted on behalf of the appellants. The Tribunal, however, allowed the application holding that the ground mentioned in the suspension order "no longer survives". The Tribunal accordingly held that further continuance of the order of suspension of the respondent was no longer justified or valid. That order has been put in issue by the Union of India.

3. We have heard learned counsel for the parties and perused the record.

4. A bare look at Rule 10 of CCS (Classification, Control and Appeal) Rules, 1965 would show that the interpretation placed by the Tribunal does not appear to be correct. An unduly narrow technical view has been taken by the Tribunal to quash the order of suspension. The view of the Tribunal that the expression "investigation, inquiry or trial" would not include the stage of filing of the charge-sheet in the Court and since investigation was over and the trial had not yet commenced, the respondent could not be placed under suspension, we are unable to accept. The delinquent cannot be considered to be any better off after the charge-sheet had been filed against him in the Court after completion of the investigation, than his position during the investigation of the case itself. It has been brought to our notice that sanction for prosecution has already been obtained and case has been fixed for framing of charges by the trial court. In this view of the matter we find that the view taken by the Tribunal in the impugned order is not sustainable and the order of suspension was not liable to be quashed on the ground that the case was neither at the stage of investigation or enquiry or trial.

5. In view of our finding above, a necessary corollary would be to set aside the impugned order but certain other factors have intervened of which we must take notice.

6. The respondent was reinstated after the order of the Tribunal dated 16-4-1996 and he joined duty on 28-5-1996. Nothing has been brought to our notice to show that after his reinstatement on 28-5-1996, almost two years ago, the respondent has committed any act which may warrant his being placed under suspension during the pendency of the trial. Since the respondent was reinstated about two years ago and the appellants have taken their own sweet time to approach this Court after a delay of 295 days, we do not want to interfere with the impugned order but we clarify that should the appellants, at any stage of the trial, find it necessary, for reasons to be recorded in writing, to place the respondent under suspension, they shall be at liberty to proceed under the Rules and this order shall not come in their way.

7. The appeal is disposed of. No costs.