

against the wife of the petitioner no. 2, the petitioner no. 2 etc, Central Bureau of Investigation had filed a charge sheet against the petitioner no. 2 and certain other persons in the court of ADJ/Special Judge, Anti-Corruption, Dehradun. On 22.09.2005, the petitioner no. 2 was suspended by the respondents. A regular charge sheet was also issued to the petitioner no. 2 by the respondents. A regular departmental enquiry was conducted against the petitioner no. 2 and the Enquiry Officer had submitted his enquiry- report to the respondents. Vide order dated December 09, 2015, the respondents had removed the petitioner no. 2 from services but he was held entitled to the superannuation benefits as per the relevant rules. In an appeal filed by the petitioner no. 2 against the above-said order, the Appellate Authority/General Manager had modified the impugned punishment order dated December 09, 2015. Vide order dated 05.08.2016, the Appellate Authority had directed that the petitioner no. 2 be brought down two lower stages in the scale of pay for a period of ten years under Para 6(e) of the Memorandum of Settlement. Vide letter dated 08.08.2016, the respondents had revoked the suspension of petitioner no. 2 but directed that he will not get any monetary benefits for his removal period and will also be debarred from any special allowance for the period of twenty four months as per policy. Through the petition, the petitioners have prayed that the petitioner no. 2 should be held entitled to balance salary with increase in salary from 18.08.2005 till date, full salary for removal period from 09.12.2015 to 12.08.2016 with all increments and benefits, regularization of his services, medical leave, earned leave and other benefits during the suspension period till date.

2. Respondents had contested the petition by filing a written statement. The respondents had, inter alia, pleaded to the following

effect. In view of the registration of an FIR and filing of a charge sheet by the Central Berau of Investigation against the petitioner no. 2 and others, the petitioner no. 2 was suspended by the respondents. Vide letter dated 29.08.2012 the petitioner no. 2 was duly informed that his suspension was revoked subject to the condition that the aspect of payment of salary for the period of suspension and granting of other service benefits for the said period will be decided after disposal of the criminal case pending against him. Vide letter dated 08.08.2016, the petitioner no. 2 was informed by the respondents that his removal from service was revoked from the date of his reporting to new place of posting and he will not get any monetary benefits for his removal period and would be debarred from any special allowance for the period of twenty four months as per policy. Respondents have prayed that the petition of the petitioners should be dismissed with costs.

3. On the pleadings of parties the following issues were framed:-

1. Whether the proceedings is maintainable?

2. Whether the action of the management Bank in withholding the subsistence allowance and other benefits of the workman for the period of suspension after revocation of suspension order is legal and justified?

3. Whether the claimant is entitled to reinstatement in service without any condition as has been imposed by the appellate authority of the management Bank?

4. To what other relief the claimant is entitled to?

4. In the evidence of petitioners, the petitioners had tendered the affidavit Exhibit WW1/A of Sh. K. K. Rastogi, Exhibit WW2/A of Sh.

Pradeep Kumar Verma besides tendering the documents Exhibit WW1/1, Exhibit WW1/2, Exhibit WW2/1 to WW2/11 only.

5. Despite the grant of many opportunities, the respondents had not adduced any evidence in support of their case.

6. I have heard the learned Authorized Representatives (for short the A/Rs) for the parties.

7. Learned A/R for the petitioners has argued that the petitioner no. 2 was wrongfully charge-sheeted and punished by the respondents without any legal basis. Learned A/R for the petitioners has further argued that the Appellate Authority vide his order dated 05.08.2016 had reduced the punishment of the petitioner no. 2 by stating that the petitioner no. 2 be brought down two lower stages for a period of ten years only. Learned A/R for the petitioners has pleaded that the respondents had wrongfully ordered that the petitioner no. 2 will not get any monetary benefits for his removal period and will also be debarred from any special allowance for the period of twenty four months. Learned A/R for the petitioners has prayed that the respondents be directed to release the balance salary of petitioner no. 2 with increase in salary from 18.08.2005 to till date, release the full salary of petitioner no. 2 for the removal period from 09.12.2015 to 12.08.2016 alongwith all increments and benefits, regularize the services of the petitioner no. 2 from 15.11.1993 to till date and give him all the benefits including medical leave, earned leave etc. during the suspension period from 15.08.2005 to till date.

8. Leaned A/R for the respondents has argued that the petitioner no. 2 was charge-sheeted and suspended by the respondents due to the registration of an FIR and filing of a charge sheet by the Central Bureau of Investigation against the petitioner no. 2. Learned A/R of the

respondents further argued that vide letter dated 29.08.2012 the petitioner no. 2 was duly informed that his suspension was revoked subject to the condition that the aspect of payment of salary for the period of suspension and granting of other service benefits for the said period will be decided after disposal of the criminal case pending against him. Learned A/R for the respondents has pleaded that vide letter dated 08.08.2016 the petitioner no. 2 was informed that his removal from service was revoked from the date of his reporting to new place of posting and he will not get any monetary benefits for his removal period and would be debarred from any special allowance for the period of twenty four months as per policy. Learned A/R for the respondents has prayed that the petition of the petitioners had no merits and should be dismissed with costs.

9. Issues no. 1 to 4

Issues no. 1 to 4 in this case involve common questions of law and facts and are, therefore, being disposed off together.

10. For a just and proper decision of this case, it is necessary to refer to certain facts that are admitted by the parties to this case.

11. In the present case, consequent upon the registration of an FIR by the police against the wife of the petitioner no. 2 and the petitioner no. 2. Central Bureau of Investigation had filed a charge sheet against the present petitioner no. 2 and some other persons in the court of ADJ/ Special Judge, Anti-Corruption, Dehradun. On 22.09.2005, the petitioner no. 2 was suspended from service by the respondents. A regular departmental enquiry was conducted against the petitioner no. 2 and the Enquiry Officer had duly submitted his enquiry report to the respondents. Vide order dated December 09, 2015, the respondents had

removed the petitioner no. 2 from services but he was held entitled to the superannuation benefits as per the relevant rules. The petitioner no. 2 had preferred an appeal against the above-said order dated 09.12.2015 of the respondents no. 3 before the Appellate Authority/General Manager. Vide order dated 05.08.2016, the Appellate Authority had modified the impugned punishment order dated December 09, 2015 and directed that the petitioner no. 2 be brought down two lower stages in the scale of pay for a period ten years under Para 6(e) of Memorandum of Settlement dated 10.04.2002. Vide letter dated 08.08.2016, the respondents had revoked the suspension of the petitioner no. 2 but directed that he will not get any monetary benefits for his removal period and will also be debarred from any special allowance for the period of twenty four months as per policy.

12. In the background of the above-said facts, the order dated 05.08.2016 of the Appellate Authority has attained finality qua the punishment to be awarded to the petitioner no. 2. Now the respondents are bound to award punishment to the petitioner no. 2 strictly in accordance with the order dated 05.08.2016 of the Appellate Authority. It need not be emphasized that the final order dated 05.08.2016 of the Appellate Authority would override the previous punishment order dated 09.12.2015 of the respondents no. 3. Now the only punishment the respondents could have awarded to the petitioner no. 2 was to bring him down two stages lower in his pay scale for a period of ten years. It is important to observe that this order dated 05.08.2016 of the Appellate Authority does not specify as to from which date the punishment awarded to the petitioner no. 2 was to take effect. In this background, it would be presumed that the Appellate Authority held intended that the

aforesaid punishment would take effect with the date of the order i.e. 05.08.2016.

13. Once the Appellate Authority has passed the final punishment order dated 05.08.2016, the respondents had no choice but to implement the above-said order dated 05.08.2016 of the Appellate Authority. Therefore, the plea of the respondents that the respondents would decide the aspect of payment of salary alongwith other service benefits for the suspension period only after the final disposal of the criminal case pending against him has no substance.

14. Under these circumstances, the respondents were clearly not justified in withholding the balance salary of petitioner no. 2 from 18.08.2005 till date, withholding the full salary of petitioner no. 2 for the removal period from 09.12.2015 to 12.08.2016 alongwith other service benefits during the suspension period. The petitioner no. 2 is clearly entitled to the release of the above-said arrears of salary alongwith other service benefits for the relevant periods.

15. Issues no. 1 to 4 stand answered in terms of the observations made above.

16. Hence, an Award is hereby passed directing the respondents to comply with the order dated 05.08.2016 of the Appellate Authority and thereafter, pay the balance salary with effect from 08.08.2005 onwards alongwith full salary for the removal period from 09.12.2015 upto 12.08.2016 to the petitioner alongwith all the service benefits including leave, increments etc. The respondents will also pay the interest of 6% per annum upon all the arrears of salary from the date of accrual upto the date of realization. Reference made by the Government of India is answered accordingly.

17. A copy of this Award be also sent to the Government of India as per rules. Case file be consigned to the Record Room.

(Ajay Kumar Jain)
Presiding Officer
Central Government Industrial Tribunal
cum-Labour Court, Delhi-1
06.05.2026