



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 3327/2019

This the 14th day of December, 2020

(Through Video Conferencing)

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

MukeshMeena,
Aged 43 years,
S/o Shri PatramMeena,
Deputy Commissioner CGST (Under Suspension),
C/o : Commissioner of Central Goods and Service Tax,
Department of Revenue, Ministry of Finance,
117/3, Sanjay Place, Agra-282002.

Currently residing at:

Qr. No. 19, Type-3,
Central Excise Colony,
Vaishali, Sector-15,
Agra-282007, Uttar Pradesh.

... Applicant

(through Mr. TusharRanjanMohanty, Advocate)

Versus

1. Union of India, thorough,
The Secretary,
Department of Revenue,
Ministry of Finance,
North Block, New Delhi – 110001.

2. The Chairperson,
Central Board of Indirect Taxes and Customs,
Department of Revenue,
Ministry of Finance,
North Block,
New Delhi – 110001.

... Respondents

(through Mr. R. K. Jain, Advocate)

ORDER (Oral)**Justice L. Narasimha Reddy, Chairman:**

The applicant is an Officer of 2009 batch of Indian Revenue Service of the first Respondent herein i.e. Customs and Central Excise Department. While functioning as Deputy Commissioner, Mumbai he was placed under suspension on 11.05.2018. That was on the ground that he was arrested by the CBI in relation to the drug case on 30.04.2018 and was released on bail on 05.05.2018 along with some other officers. The order of suspension was extended from time to time in the spells of six months each. This OA is filed with a prayer to quash and set aside the order dated 11.05.2018.

2. The applicant contends that the only basis on which he was placed under suspension was that the trap was conducted by the CBI and he was arrested. He contends that even while granting bail on 05.05.2018, the Trial Court expressed the view that the CBI tried to make mountain out of a mole and that would indicate the lack of material for continued suspension. Reliance is placed upon the judgment of the Hon'ble Supreme Court in *Ajay Kumar Chowdhary Vs. Union of India*. He also states that though 6 officials were

placed under suspension, two of them were reinstated by the department itself and one officer by name Sandeep Yadav filed OA before the Cuttack Bench and the said OA was allowed and the said order was upheld by the Hon'ble High Court. Reliance is also placed upon the judgement of Hon'ble Supreme Court in State of Tamilnadu Vs. Promod Kumar.



3. On behalf of the respondents a detailed reply is filed.

It is stated that a trap was laid against the applicant and as a result thereof he was also arrested. It is stated that being a senior officer in the department he was required to maintain good conduct and honesty, but he has compromised with the same. In relation to the OA filed by Sandeep Yadav, it is stated that an SLP is filed and it is about to be listed for hearing. The charge sheet in the criminal case is said to have been filed on 28.11.2019 and that the sanction for prosecution of the applicant was also accorded on 27.02.2020.

4. We heard Mr. TusharRanjanMohanty, learned counsel for the applicant and Mr. R. K. Jain, learned counsel for the respondents in detail.

5. The applicant was placed under suspension on 11.10.2018 and it was being extended from time to time. It was on was basis of the arrest on 30.04.2018 and that in turn was a sequel to the trap laid by the CBI.

6. It is no doubt true that in Ajay Kumar Chowdhary's case The Hon'ble Supreme Court expressed the view that the suspension must not be continued in case the charge sheet is not filed in a criminal case within a stipulated time. However, a perusal of the judgement, particularly, the operative portion discloses that though the charge sheet in relation of the applicant therein was filed at a time when the SLP was pending, their Lordship did not direct his reinstatement. Therefore, it is difficult to discern that invariably, an officer or an employee under suspension, must be reinstated in case a charge sheet is not filed in the criminal case within the period of 90 days. The requirement under Rule - 10 is that the suspension pending enquiry would lapse if it is not extended within 90 days. In the instant case, there is a compliance with the said rule.



7. In pramod Kumar's case, the relief was granted mostly on the ground that the officer was under suspension for a period of six years by the time the case was filed. By any standard suspension for a prolonged period of six years is a matter of concern not only for the employee but also for the administration. In the instant case the applicant was placed under suspension on 11.05.2019. By the time the OA is filed, the applicant was under suspension for a period of

about two years. If one takes into account, the nature of allegations and the type of criminal case pending against him, it cannot be said that the extension of suspension is totally unwarranted.



8. Out of 6 persons who were placed under suspension two were reinstated by the department itself. However, they are said to be Group-B employees, against whom the allegation is that they have abated in commission of crime by the applicant and other senior officers.

9. Though in the case of Sandeep Yadav, the OA was allowed and the Hon'ble High Court upheld the same, an SLP is said to be pending. Under these circumstances the only relief which can be granted to the applicant is that the respondents can be required to take into account, the various factors such as reinstatement of two employees on their own accord and the purport of the order in the OA filed by Sandeep Yadav, as and when the present spell of suspension expires.

10. It is also brought to our notice that the applicant has since been shifted from Mumbai to Agra and though he filed an OA before the Mumbai Bench, no interim order was passed therein.

11. We, therefore dispose of the OA directing that in its next review, the committee shall take the factors mentioned above in case of the applicant and pass appropriate orders. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

cc/lq/ankit/sd