

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00427/2020

HYDERABAD, this the 4th day of February, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



R. Ranjit Kumar
S/o Late R. Ramchander,
Age 52 Years,
Occ : Superintendent (Caretaking),
National Institute for Micro Small and
Medium Enterprises (ni-msme),
Yousufguda, Hyderabad-500045.

...Applicant

(By Advocate : Mr. M. Venkanna)

Vs.

1.The Union of India represented by
Secretary to the Government of India,
Ministry of Micro Small and Medium Enterprises
Government of India, Udyog Bhavan,
New Delhi 110 011.

2.The Director General,
National Institute for Micro Small and
Medium Enterprises (ni-msme),
Yousufguda, Hyderabad-500045.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed with a prayer to quash and set aside the order of extension of suspension dt. 03.08.2020, being contrary to law laid down by the Hon'ble Supreme Court in Ajay Kumar Chowdhary v. Union of India and also the guidelines issued by the DOPT and for a consequential direction to the respondents to reinstate him immediately, with all consequential benefits.

3. Brief facts of the case are that the applicant while working as Superintendent (Caretaking) in the respondents Organisation was alleged to have cut a number of trees in the premises of the 2nd respondent office. The consequential action on behalf of the respondents was to place the applicant under suspension and continue the same, which the applicant claims is irregular, arbitrary and illegal. Therefore, the OA.

4. The contentions of the applicant are that he was not kept in police custody for more than 48 hours for issuing the orders of deemed suspension. Applicant has discharged his duty. Attributing malafide intentions is unfair. Respondents extending the suspension is improper and not in tune with the judgment of the Hon'ble Supreme court in Ajay Kumar Choudary v. Union of India in Civil Appeal No. 1912 of 2015. Charge sheet has not been issued till date.

5. Respondents in the reply statement state that the applicant has cut down the trees with a malafide intention which is grossly irregular. Matter



was reported to police and since the applicant was in police custody for more than 48 hours he was placed under suspension as per rules. Applicant admitted to the felling of trees before the police. Criminal case has been filed in the Court of the XVII Additional Chief Metropolitan Magistrate, at Nampally, Hyderabad. The detention of the applicant beyond 48 years is revealed from the 3rd and 4th page of the charge sheet, which have been deliberately not filed by the applicant while appending the charge sheet to the OA. The internal findings of the respondents goes to prove that the applicant was involved in the irregular act without the orders of the competent authority. CCTV footage confirms the assertion of the respondents. The Forest Department is also inquiring into the matter as per the provisions of the relevant Act. The issue of suspension of the applicant has already been dealt by the Tribunal in OA No.12/2020 vide order dt. 16.09.2020 and hence the instant OA is hit by the Principle of Res Judicata.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is about revocation of the suspension ordered w.e.f. 04.11.2019 vide order dt. 07.11.2019 and extended vide orders dated 03.02.2020 and 03.08.2020, for felling 27 old trees in the premise of the 2nd respondent with a malafide motive. The issue has been dealt by the Tribunal in OA No.12/2020 and disposed on 16.9.2020. The operative portion of the judgment is extracted hereunder:

“6. The issue is about the allegation of the applicant illegally felling the trees in the compound of the respondent’s organization on 3.11.2019, with the help of outsiders. The 2nd respondent, on knowing about the felling of the trees, immediately rushed to the spot and after making preliminary inquiries, ensured that a complaint is lodged against the applicant in Jubilee Hills Police Station. The Police authorities apprehended the



applicant from his residence on 4.11.2019 at 18.45 hours. He was produced before the competent Court on 5.11.2019 and was kept under judicial custody. He was granted bail on 6.11.2019 at 19.30 hours. These are the facts on record. Applicant has also confirmed the same vide his representation dated 11.11.2019. Therefore, averment made by the applicant in the O.A. that he was not kept under judicial custody for 48 hours is not true. As per rules, any employee when he is detained beyond 48 hours by the Police authorities/ judicial custody, then the employee has to be suspended. Respondents did the same vide Memo dated 7.11.2019. Hence, the action of the respondents is as per rules. A charge sheet has been filed and is under adjudication by the competent Criminal Court. Learned counsel for the respondents stated that the Forest Department is also inquiring into the matter because a number of old trees were illegally got cut by the applicant with the assistance of outsiders. This, the applicant is stated to have done without the approval of the superior officers. Hence, he is liable for disciplinary action. Learned counsel for the applicant argued that since a charge sheet has been filed before the competent Criminal Court, the suspension may be revoked. The respondents claim that as the crime is serious, they have suspended the applicant and are continuing it. However, we are of the view that if the respondents desire to take disciplinary action against the applicant, they need to issue a charge memo in a given time frame. It is not in the interest of the applicant or that of the organization to keep an employee under suspension for a long period of time. Nearly 11 months have lapsed but the respondents have not yet issued any charge memo, though they stated that they would initiate disciplinary action against the applicant. The Hon'ble Supreme Court, in a catena of judgments, observed that disciplinary action has to be taken within a given time frame. Therefore, it would be fair to direct the respondents to issue charge memo within a period of 6 months from the date of receipt of this order. Once the charge memo is issued, they may consider revocation of suspension and place the applicant in a post where he would not be in a position to interfere with the witnesses or documents. This, we are of the opinion, would serve the interest of justice. Hence, the respondents are directed accordingly.

With the above direction, the O.A. is disposed of. MA/21/230/2020 shall stand closed. No order as to costs. “

The respondents are thus under directions to revoke the suspension after the issue of the charge sheet within the time frame granted by the Tribunal. Respondent still have time to act on the orders of the Tribunal and hence, it would be premature to make any observation at this interval of time, by considering the rival contentions. Broadly speaking, the OA is hit by the principle of Res-Judicata as the issue involved in both the OAs is the revocation of the suspension. It would suffice to state that the respondents are bound by the order of the Tribunal unless it is stayed by the superior judicial forum. As on date, there is no such stay order. In case the

respondents fail to act on the orders of the Tribunal as directed, it is open to the applicant to pursue legal remedies permitted under law.

II. With the above direction, the OA is disposed of, with no order as to costs.



(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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