


Reserved**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**
JABALPUR**Original Application No.200/689/2020**Jabalpur, this Tuesday, the 09th day of February, 2021**HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER


Janak Prasad Pathak, S/o Late Shri Govardhan Prasad Pathak, aged about 53 years, Member Indian Administrative Services (Under Suspension), Mantralaya Mahandi Bhavan, Atal Nagar, Nava Raipur, Chhattisgarh : 492101.

-Applicant**(By Advocate – Shri K.C. Ghildiyal)****V e r s u s**

1. Union of India through the Secretary, Government of India, Department of Personnel & Training, North Block, New Delhi – 110001.

2. The State of Chhattisgarh through the Principal Secretary, General Administration Department Mantralaya Mahandi Bhavan, Atal Nagar, Nava Raipur, Chhattisgarh – 492101


-Respondents**(By Advocate – Shri Surendra Pratap Singh for respondent No.1 and Shri Ajay Ojha for respondent No.2)***(Date of reserving order : 06.01.2021)***O R D E R****By Ramesh Singh Thakur, JM.**

The applicant, who is a member of Indian Administrative Services (IAS), is aggrieved by order of dated 04.06.2020 (Annexure A-1), whereby he has been placed under suspension.

2. The case of the applicant, in brief, is that the applicant was initially appointed as a member of the State Administrative Services in the year 1994 and was allocated to the State of Chhattisgarh on reorganization of State of Madhya Pradesh. Thereafter, the applicant was promoted and awarded IAS in the year 2007. During the year 2020, when the applicant was posted as Collector, District – Janjgir-Champa, an FIR number 256/2020 was registered against the applicant in Police Station Janjgir on 03.06.2020 under Section 376, 506 and 509(b) of IPC. Immediately thereafter, the applicant was placed under suspension vide order dated 04.06.2020 (Annexure A-1) under Rule 3(3) of the All India Services (Discipline and Appeal) Rules, 1969 (hereinafter referred to as ‘**1969 Rules**’). The applicant approached the Hon’ble High Court of Chhattisgarh in MCRC No.774/2020 where he was granted the anticipatory bail vide order dated 14.08.2020 (Annexure A-2).

3. The grounds for challenging the impugned order of suspension are that the provisions regarding placing a member belonging to the All India Services under suspension are contained in Rule 3 of the 1969 Rules. Rule 3(6A) of the 1969 Rules provides that when an order of suspension is made





by the Government of State under Rule 3, detailed report of the case shall be forwarded to the Central Government within a period of fifteen days of the date on which the member of the service is placed under suspension. Further, proviso to Rule 3(8)(a) provides that in absence of an order of extension, the order of suspension shall stand revoked with effect from the date of expiry of the order being reviewed. The Department of Personnel & Training has also issued Office Memorandum dated 25.05.2016 (Annexure A-4) regarding procedure to be followed for suspension of All India Services Officers. Clause (v) of Annexure-II of the OM provides that where a State Government passes an order for suspension of a member of service, it will be valid for a period of 30 days from the date from which the member is placed under suspension. Further extension of 30 days requires confirmation by the Central Government.

4. The applicant submits that the detailed report was sent to the Central Government vide letter dated 24.06.2020 (Annexure R-2-3), i.e. after the expiry of fifteen days of placing the applicant under suspension on 04.06.2020. Further, the approval of the Central Government regarding continuance of suspension of the applicant was received by the State

Government on 16.07.2020 (Annexure R-2-5), which is beyond the period of 30 days from the date from which the applicant was placed under suspension. It has also been submitted by the applicant that even after more than six months of suspension period, the applicant has not been issued any chargesheet. Therefore, the prolonged suspension of the applicant is contrary to the law laid down by the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary vs. Union of India & Ors.**, (2015) 7 SCC 291.



5. Reply has been filed on behalf of respondent No.2-State of Madhya Pradesh, wherein it has been stated that the Original Application is not maintainable as the applicant has not availed the alternate remedy of filing appeal under Rule 16 of 1969 Rules. It has also been submitted by the respondents that they have acted as per rules as vide letter dated 04.06.2020 (Annexure R-2-1), the Central Government was informed within 48 hours as provided in the rules. Thereafter, a letter of acknowledgement dated 17.06.2020 (Annexure R-2-2) was received from the Central Government and vide letter dated 24.06.2020 (Annexure R-2-3), a detailed report was submitted to the Central Government as per Rule 3(6A) of 1969 Rules. The

Government of India has also conveyed the approval of the Competent Authority vide letter dated 16.07.2020 (Annexure R-2-5).

6. We have heard the learned counsel for the parties and perused the pleadings and the documents available on record.

7. Rule 3 of 1969 Rules provides for placing under suspension a member of the All India Service. Sub Rule (6A) of Rule 3 of 1969 Rules provides as under:

“3(6A) where an order of suspension is made, or deemed to have been made, by the Government of a State under this rule, detailed report of the case shall be forwarded to the Central Government ordinarily within a period of fifteen days of the date on which the member of the Service is suspended or is deemed to have been suspended, as the case may be.”

8. Further Rule 3(8) of 1969 Rules regarding validity and review of the suspension period states thus;

“3(8)(a) An order of suspension made under this rule which has not been extended shall be valid for a period not exceeding ninety days and an order of suspension which has been extended shall remain valid for a further period not exceeding one hundred eighty days, at a time, unless revoked earlier.

3(8)(b) An order of suspension made or deemed to have been made or continued, shall be reviewed by the competent authority on the recommendations of the concerned Review Committee.



3(8)(c) The composition and functions of the Review Committees and the procedure to be followed by them shall be as specified in the Schedule 1 annexed to these rules.

3(8)(d) The period of suspension [under this rule] may, on the recommendations of the concerned Review Committee, be extended for a further period not exceeding one hundred and eighty days at a time:

Provided that where no order has been passed under this clause, the order of suspension shall stand revoked with effect from the date of expiry of the order being reviewed”



9. In the light of the amended provisions of Rule 3, Rule 18 and Rule 25 of the 1969 Rules, the Government of India, Department of Personnel & Training, has issued an Office Memorandum dated 25.05.2016 (Annexure A-4), which provides for procedure to be followed for suspension of All India Service officers under 1969 Rules. Annexure –II appended with the said Office Memorandum reads as under:

Procedure to be followed for suspension of All India Service officers posted in Ministries/Departments/State Governments under AIS(D&A) Rules, 1969

Rule 3 of AIS (D&A) Rules, 1969 stipulate suspension of All India Service officers. Vide Notification dated 23.12.2015 provisions of Rule 3, Rule 18 and Rule 25 of the said Rules were amended. In the light of the amendments the following procedure is to be followed by Ministries/Departments/State Governments for suspension of All India Service officers:

(i) A member of Service when placed under suspension of deemed to have been placed under suspension, the information in

this regard shall be communicated to Government of India expeditiously and within the period of forty-eight hours.

(ii) A copy of the suspension order along with the reasons or grounds of suspension shall be communicated to the Cadre Controlling authority in the Central Government not later than forty-eight hours.

(iii) A member of the Service who is detained in official custody whether on a criminal charge or otherwise for a period longer than forty-eight hours shall be deemed to have been suspended by the Government concerned.

(iv) A detailed report of the suspension shall be forwarded to the Central Government within a period of fifteen days from the date on which the member of the Service is suspended or is deemed to have been suspended, as the case may be.

(v) Where a State Government passes an order for suspension of a member of Service it will be valid for a period of thirty days from the date from which the member is placed under suspension. Further extension for thirty days requires confirmation by the Central Government.

(vi) An order of suspension which has been extended shall remain valid for a further period not exceeding one hundred twenty days, at a time, unless revoked earlier on the recommendation of the Central/State Review Committee.



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10. In the present case, the applicant was placed under suspension on 04.06.2020 and the respondent No.2-State of Chhattisgarh has intimated the suspension of the applicant to the Government of India vide communication

dated 04.06.2020 (Annexure R-2-1). The Government of India vide communication dated 12/17.06.2020 (Annexure R-2-2), while noting the suspension details of the applicant, has referred the matter to the respondent No.2 to proceed as per the instructions laid down in the OM dated 25.05.2016. In furtherance thereto, the respondent No.2 vide letter dated 24.06.2020 (Annexure R-2-3) has forwarded the detailed report to the respondent No.1 as per Rule 3(6A) of 1969 Rules, i.e. after expiry of 15 days period of suspension of the applicant on 04.06.2020. We also find that suspension order of an All India Service officer has the validity of 30 days as provided in the instructions issued by the DoP&T in clause (v) of the OM dated 25.05.2016 (Annexure A-4) and further extension for thirty days requires confirmation by the Central Government. In the instant case, the respondent No.2 has sent the matter on 08.07.2020 to the Government of India for extension of suspension period of the applicant and the approval of the Government of India has been received on 14/16.07.2020. The exercise of extending the suspension period was to be carried out before expiry of 30 days' period from the date of placing the applicant under suspension on 04.06.2020, which apparently has not been done in this case. Therefore, we find that the provisions of Rule 3(6A) of 1969 Rules and the instructions



issued vide OM dated 25.05.2016, particularly in clause (v), have not been applied in its true meaning.

11. In view of the aforesaid, the Original Application is allowed. The impugned suspension order of the applicant dated 04.06.2020 (Annexure A-1) is quashed and set aside. However, the respondent-State of Chhattisgarh shall be at liberty to take appropriate steps as per rule/instructions on the subject. No costs.



(Naini Jayaseelan)
Administrative Member
am/-

(Ramesh Singh Thakur)
Judicial Member