

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No. 694 of 2004.

Allahabad this the 28th day of January 2005.

Hon'ble Mr. Justice S.R. Singh, V.C.
Hon'ble Mr. S.C. Chaube, Member-A.

Jag Mohan Prasad
S/o Late Shri Haridwar Prasad
aged about 54 years,
Resident of 1A/3A, Ram Priya Road,
Allahabad, District Allahabad.

.....Applicant.

(By Advocate : Sri N.L. Srivastava)

Versus.

1. Union of India
Ministry of Textile, Udyog Bhawan,
New Delhi through its Secretary.
2. Development Commissioner (Handicrafts)
Ministry of Textile, West Block No.7
R.K. Puram, New Delhi.
3. Regional Director (Central Region)
Office of the Development Commissioner
(Handicrafts), Kendriya Bhawan 7th Floor,
Aliganj Sector-H Lucknow.

.....Respondents.

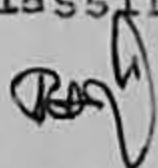
(By Advocate : Sri Tej Prakash)

O_R_D_E_R

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri N.L. Srivastava learned counsel for the applicant, Shri Tej Prakash Addl. Standing Counsel representing the respondents and perused the pleadings.

2. While working as Assistant Director (A&C) in the office of Development Commissioner (Handicrafts), Carpet Weaving Training Cum-Service Centre, Allahabad. The applicant was placed under suspension in contemplation of disciplinary enquiry under Rule 14 of Central Civil Services (Classification Control and Appeal) Rules-1965



vide order dated 28.07.2003. The said suspension, according to Sub-Rule (5) of Rule 10 of C.C.S (C.C.A) Rules 1965 was to remain in force until modified or revoked by Authority Competent to do so. By means of notification dated 23rd December 2003, the President in consultation with the Comptroller and Auditor General of India issued the Central Civil Services (Classification, Control and Appeal) Amendment Rules, 2003 in exercise of the powers conferred by the proviso to Article 309 and Clause (5) of Article 143 of the Constitution of India, whereby Sub- Rules (6) and (7) were added in Rule 10 after Sub-Rule (5) (e):

- "(6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority which is competent to modify or revoke the suspension, before expiry of 90 days from the date of order of suspension on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding 180 days at a time.
- (7) Notwithstanding anything contained in sub-rule 5 (a), an order of suspension made or deemed to have been made under sub-rule (1) or (2) of this rule shall not be valid after a period 90 days unless it is extended after review, for a further period before the expiry of 90 days."

3. According to Sub Rule (2) Rule 1 of the Central Civil Services (Classification, Control and Appeal) Amendment Rules, 2003, the amendment were to come into force on expiry of 90 days from the date of their publication in the official Gazette, It is not disputed that the Amendment Rules, 2003 were published ⁱⁿ on official Gazette. Consequently the Amendment Rules 2003 came into force w.e.f. 02.04.2004. However by means of G.E., Department of Personnel and Training O.M. No.11012/4/2003-Estt. (A) 19-03-2004, it was provided that review of the

[Signature]

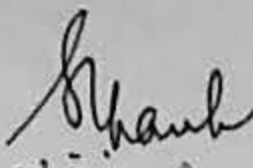
pending cases as contemplated by newly added sub Rule (6) of Rule 10 would be made by 02.04.2004 in pending cases in which the period of suspension had already exceeded 90 days. The cut off date, however, came to be changed to 02.06.2004 by means of notification dated 02.04.2004 (G.S.R 249E), a copy of which has been annexed as (Annexure A-7). In the instant cases, the applicant was already under suspension when the notification dated 23.12.2003 was enforced and therefore, as provided by office memorandum dated 02.04.2004 his case had to be reviewed by 02.06.2004. The suspension of the applicant has been extended by impugned order dated 25.06.2004 without recommendation of the Review Committee. There is no specific denial of the averment made in the original application that the suspension has ^{been} extended sans any recommendation by the Review Committee. The Addl. Standing Counsel was granted two weeks and no more time to file supplementary counter affidavit vide order dated 29.10.2004 but till date no supplementary counter affidavit has been filed bringing on record any material showing that the extension of the applicant's suspension was recommended by the Review Committee as comprehended by Sub-Rule (6) and Rule 10 of Central Civil Services (Classification, Control and Appeal, 1965 inserted by Amendment Rules, 2003. The result is that the suspension order ceased to be valid after expiry of 90 days as visualized by Sub-Rule (7) of Rule 10, which clearly provides that an order of suspension made or deemed to have been made under sub-rules (1) or (2) of this rule shall not be valid after a period 90 days unless it is extended after review, for a further period "before the expiry of 90 days". There being no material on record to show that order of extension was passed

Page 9

after review, the suspension of the applicant ~~was~~^{ceased} to
be valid and ^{is} entitled to be reinstated. In any case it
was not extended before the cut-off-date i.e. 2.6.2004.

4. The O.A. accordingly succeeds and is allowed.
The respondents are directed to reinstate the applicant
in service w.e.f. 02.06.2004 without prejudice to the
disciplinary enquiry.

No costs.


Member-A.


Vice-Chairman.

Manish/-