

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 23rd day of February, 2005.

QUORUM : HON. MR. JUSTICE S.R. SINGH, V.C.

HON. MR. S. C. CHAUBE, A.M.

O.A. No.966 of 2004

S.S. Hasan, Son of Shri S.W.H. Rizvi, aged about 50 years, R/O III/5, I.T. Complex, Nehru Colony, Dehradun.....
.....Applicant.

Counsel for Applicant : Sri N.L. Srivastava.

Versus

1. Union of India, Ministry of Textiles, Udyog Bhawan, New Delhi through its Secretary.
2. Development Commissioner (Handicrafts), Ministry of Textiles, West Block No.7, R.K. Puram, New Delhi.

.....Respondents.

Counsel for Respondents : Sri Saumitra Singh.

ORDER (Oral)

BY HON. MR. JUSTICE S.R. SINGH, V.C.

Heard Shri N.L. Srivastava, learned counsel for the applicant, Shri Saurabh Srivastava holding brief of Shri S. Singh, learned counsel for respondents and perused the pleadings.

2. The applicant, a Carpet Training Officer, was placed under suspension under Sub Rule 1 of Rule 10 and charge-sheet was subsequently issued under Rule 14 of the CCA(CCS) Rules, 1965 vide charge memo dated 14.5.2003. The disciplinary proceedings are still pending. The question that arises for consideration is whether the suspension of the applicant has ^{Ceased to} exists in view of the provisions contained in Sub Rule 7 of Rule 10 added in the principal rules by means of notification dated 23/12/2003. It is not disputed that an order of suspension made or deemed to have been made under Sub Rule (1) or (2) of Rule 10 is required to be reviewed by the Competent Authority "before expiry of 90 days from the order of suspension on the recommendation of the Review Committee constituted for the purpose" and the Competent Authority may pass orders either extending or revoking the suspension.

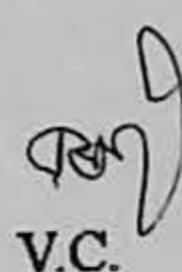
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Subsequent reviews are required to be made before expiry of the extended period of suspension. Sub Rule (7) of Rule 10 as added by means of notification dated 23.12.2003 provides that an order of suspension made or deemed to have been made under Sub Rule (1) or (2) of Rule 10 shall not be valid after 90 days "unless it is extended after review for a further period before the expiry of ninety days". The notification dated 23.12.2003 came into force after the expiry of 90 days from the date of its publication in the gazette. Consequent upon the enforcement of the amended rules, it became necessary to extend the suspension order on the basis of recommendation of the Review Committee as visualised by notification dated 19.3.2004. According to the said notification dated 19.3.2004, review of pending cases in which suspension had exceeded 90 days was necessary by 2.4.2004 and other cases were required to be reviewed before expiry of 90 days from the date of order of suspension. By a subsequent notification dated 2.4.2004, the cut off date was extended from 2.4.2004 to 2.6.2004. However, concededly no recommendation was made by the Review Committee for extension of the suspension before the cut off date namely 2.6.2004. The Disciplinary Authority on its own extended the suspension but such extension would be of no avail in view of the express statutory provisions which visualised extension of suspension on recommendation by Review Committee and in the event of failure to extend the suspension as provided under the rules, the same would ~~cease~~ to be valid after a period of 90 days. In other words, the suspension of the applicant ~~cease~~ to be operative after the cut off date namely, 2.6.2004. The applicant would, therefore, be entitled to be reinstated in service without prejudice to the disciplinary inquiry which may be continued and taken to its logical ends according to law.

3. The O.A. is disposed of with a direction to Respondents to reinstate the applicant w.e.f. 2.6.2004 with consequential benefits without prejudice to the inquiry which may be continued and taken to its logical end in accordance with law.

No costs.


A.M.


V.C.

Asthana/