



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 4444/2018

This the 05th day of May, 2021

(Through Video Conferencing)

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

Chhotey Lal Meena, DOB 05.02.1958,
Age 60 years, S/o Sh. Mishri Lal,
R/o 446, Sector 21-B,
Faridabad Haryana – 121001,
Worked as Superintendent (Retired),
Group –B.

... Applicant

(By Advocate: Mr. Lalit Valecha)

Versus

1. Union of India,
Through its Secretary,
Ministry of Finance, Department of Revenue,
North Block, New Delhi.
2. The Chairman,
CBEC, North Block,
New Delhi.
3. The Chief Commissioner of GST & Central Excise,
Delhi Zone, Central Revenue Building,
IP Estate, New Delhi.

... Respondents

(By Advocate : Mr. Y.P. Singh)



O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant was working as Superintendent in the Department of Customs in the year 2017. Through an order dated 13.10.2017, he was placed under suspension pending enquiry into certain allegations. It was imposed for a period of 90 days. Thereafter, it was extended by 180 days through order dated 08.01.2018. Even while the suspension was in force, the applicant retired from service on 28.02.2018. He filed this OA challenging the initial order of suspension dated 13.10.2017 and the order of extension of suspension dated 08.01.2018.

2. The applicant contends that the initial order of suspension became redundant on account of the fact that no charge sheet was issued within 90 days and subsequent extension is of no consequences. It is also stated that the retirement benefits were withheld on account of these developments.

3. The respondents filed counter affidavit. According to them, serious allegations were levelled against the applicant and taking the same into account, the order of suspension was passed. It is also stated that the applicant did not have any grievance against the order, and further steps were taken in accordance with law.



4. We heard Sh. Lalit Valecha, learned counsel for the applicant and Sh. Y.P. Singh, learned counsel for the respondents.

5. The applicant was placed under suspension way back on 13.10.2017. As required under law, the initial suspension will be in force for a period of 90 days. Before expiry of that period, another order was passed on 08.01.2018, extending the period of suspension by 180 days. The applicant retired from service on 28.02.2018 on attaining the age of superannuation. Various contentions are urged before us in the OA as well as the rejoinder, attacking the order of suspension and that of extension. We are of the view that once the applicant retired from service, the suspension becomes virtually redundant.

6. However, the order of suspension may become relevant in the context of disciplinary proceedings, that are deemed to have been pending against the applicant by the time, he retired, by operation of Rule 9 of CCS (Pension) Rules, 1972 (hereinafter referred to as Pension Rules). It is not the case of the applicant that the order of suspension was passed by an authority not vested with the power. The ground urged by him is that the suspension ceases on account of failure of the respondents to issue a charge memo. We are not inclined to accept that contention. Reference is made to the



judgment of the Hon'ble Supreme Court in *Ajay Kumar Chaudhary vs. Union of India & Anr.*, [(2015) AIR (SC) 2389].

The Hon'ble Supreme Court, no doubt, made certain observations that the charge memo must be issued within ninety days. However, there is nothing in the judgment to indicate that the order of suspension would become illegal on account of failure of issuance of the charge memo within 90 days. The suspension was extended and before the expiry of the initial period. The applicant retired from service while under suspension. Therefore, the situation to contemplated action under Rule 9 of the Pension Rules arises.

7. Rule 69 of the Pension Rules enables the Government to withhold the retirement benefits in the event of departmental or judicial proceedings pending against the employee. The provisional pension is required to be sanctioned. The respondents cannot keep the matter pending indefinitely. The applicant retired more than two years ago. It is brought to our notice that even by that time, no charge sheet was issued.

8. We, therefore, dispose of the OA :



(a) declining to interfere with the order of suspension dated 13.10.2017 and the order of extension of suspension dated 08.01.2018; but

(b) directing that in case the respondents fail to issue any charge memo to the applicant within a period of two months from the date of receipt of a copy of this order, they shall be under obligation to release all the retirement benefits, within a period of three months from the date of receipt of a copy of this order, without prejudice to the right to proceed against the applicant.

(c) In case the charge memo is issued, the proceedings shall be concluded in accordance with law, as early as possible, but not later than nine months from the date of issue of the charge memo.

There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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