



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

**OA No. 871/2021
MA No. 1197/2021**

This the 11th day of May, 2021

(Through Video Conferencing)

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

Vikram Bhasin,
S/o Late Sh. A. K. Bhasin,
R/o C-475, Defence Colony,
New Delhi – 110024,
Working as Superintendent (Jewellery Expert) (Prev.)
(Under Suspension),
Office of Commissioner of Customs,
IGI Airport & General Commissionerate,
New Delhi – 110037.

... Applicant

(By Advocate : Mr. Pradeep Rai (Senior Advocate) assisted
by Mr. Rajesh Kumar)

Versus

1. Union of India,
Through Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi – 110001.
2. The Commissioner of Customs,
Airport & General Commissionerate,
New Custom House,
New Delhi – 110037.

... Respondents

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

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman :**

The applicant is working as Jewelry Appraiser in the office of Commissioner of Customs. He was placed under suspension through an order dated 03.06.2019 in contemplation of the disciplinary proceedings. It was initially for a period of 90 days and thereafter, it was extended from time to time in the spells of 180 days. This OA is filed, challenging the order of suspension dated 03.06.2019 and subsequent extensions.

2. The applicant contends that the suspension was only in contemplation of disciplinary proceedings and even by now, no charge memo was issued, and the entire exercise becomes arbitrary and colorable one. He submits that the respondents cannot extend the suspension indiscriminately, without there being any material and particularly, when no charge memo was issued.

3. The respondents filed a detailed reply. It is stated that an FIR was issued against the applicant, on noticing certain deviations in the discharge of his duties and the order of suspension was passed in contemplation of the disciplinary proceedings. It is stated that on account of investigations, pending into the various aspects, the charge memo was not





issued by this time and they would take necessary steps shortly.

4. We heard Mr. Pradeep Rai, Sr. Advocate assisted by Mr. Rajesh Kumar, learned counsel for the applicant and Mr. Y.P. Singh, learned counsel for the respondents.

5. The applicant feels aggrieved by the initial suspension, through order dated 03.06.2019 and the subsequent extensions. The order dated 03.06.2019 reads as under:-

“Whereas, disciplinary proceedings against Shri Vikram Bhasin, Jewellery Appraiser (DOB 12.04.1967), presently posted at SVB (General), New Custom House, New Delhi are contemplated.

Now, therefore the competent authority, in exercise of power conferred by Rule 10 (2) of CCS (CCA) Rules, 1965, hereby places the said officer i.e. Shri Vikram Bhasin, Jewellery Appraiser, SVB (General), New Custom House, New Delhi under suspension with immediate effect.

Under FR 53 (1) (ii) (a), a subsistence allowance to be allowed to the officer shall be 50% of the pay.

It is further ordered that during the period this order remains in force, the Headquarter of Shri Vikram Singh Bhasin, Jewellery Appraiser, shall be Office of the Commissioner of Customs, Airport & General Commissionate, New Custom House, New Delhi. Shri Vikram Bhasin, Jewellery Appraiser, shall not leave the Headquarter without the permission of the Additional Commissioner of Customs, Airport & General Commissionate, New Custom House, New Delhi.”

6. From a perusal of the same, it is evident that the suspension was resorted to, in contemplation of the disciplinary proceedings. There is no reference to any criminal case, much less, to the factum of arrest. We are referring to the fact, for the reason that any department can



place an employee under suspension, if his name figures in the FIR or if he was arrested. In certain cases, the suspension is deemed, whenever the officer is arrested. This case does not fall into any of those categories.

7. Rule 10(2) of the CCS (CCA) Rules empowers the Appointing Authority to place an officer under the suspension, pending or in contemplation of disciplinary proceedings. The impugned order itself states that the suspension is in contemplation of the disciplinary proceedings. The very word "contemplated" connotes that the department is already in possession of certain material for the purpose of initiating disciplinary proceedings and as a matter of course, it should follow, within a short time. Nearly 2 years have elapsed ever since the applicant was placed under suspension. Even in a case where, the suspension is ordered as a sequel to the initiation of criminal proceedings, the departmental guidelines are to the effect that the matter should be reviewed and it is only when the charges of very sensitive and serious nature are leveled against the official that the suspension can be continued beyond that time. With the passage of time, beyond a point it emerges that on the one hand, the department has to pay subsistence allowance almost equivalent to salary and on the other hand, they would not be in a position to avail the service of the official. That can be avoided by reinstating the



official, without prejudice to the proceedings which are either contemplated, or, are pending.

8. The gist of the precedents rendered by various Courts on the issue, is that the order of suspension must be followed by the steps, such as the filing of the charge-sheet in the criminal or charge memo in the disciplinary proceedings, and failure to do that within the stipulated time will render the very suspension illegal. In the instant case, almost two years have elapsed ever since, the suspension was ordered and no charge memo was issued to the applicant. Within this time, the respondents could have collected whatever material or evidence that constituted the basis for initiation of disciplinary proceedings. If for any reason, such measures have not been taken, the very suspension becomes unwarranted. We find that except making a formal observation, that the suspension deserves to be extended, no reference is made to any serious issue or valid material. We are of the view that whatever may have been the circumstances to pass the order of suspension dated 03.06.2019, there is no justification for continuing it, upto this length of time.

9. Therefore, we allow the OA and direct that suspension of the applicant shall not be continued, once the present extension of time expires. The applicant shall be reinstated into service soon thereafter. It shall also be open to the



respondents to transfer the applicant in case his working at the present station is found to be objectionable, in any manner. Necessary order shall be passed within two weeks from the date of receipt of a copy of this order.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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