

ORDER DATED 29th FEBRUARY, 2008

Coram:

**Hon'ble Shri M.R. Mohanty, Vice-Chairman
Hon'ble Shri C.R. Mohapatra, Member(A)**

The Applicant was arrested by CBI Police on 14.06.2006. By an order dated 06.07.2006, it was declared that the Applicant was deemed to be under suspension w.e.f. 14.06.2006. He submitted representations on 07.09.2006 and again on 12.09.2006. The suspension matter was reviewed and his suspension was extended by an order dated 29.09.2006 w.e.f. 12.09.2006. In the meantime the Applicant submitted further representations on 26.09.2006 and on 18.10.2006. Applicant's suspension was further extended w.e.f. 11.12.2006 vide order dated 18.12.2006. His Head Quarters was shifted from Calcutta to Bhubanewar by an order that was issued on 01.03.2007. The Applicant, who was relieved from Kolkata on 02.03.2007, reported at Bhubaneswar on 08.03.2007. On further review of the matter, his suspension was extended w.e.f. 11.03.2007 by an order dated 09.03.2007.

2. At the above said stage, the Applicant has approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 and, by order dated 18.04.2007, notices were issued to the Respondents. On that date Respondents were also asked to consider the representation of the Applicant by a speaking order.

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3. Applicant submitted a further representation on 13.06.2007 and the matter, relating to the suspension of the applicant, received further review and the suspension was further extended w.e.f. 09.06.07 by an order dated 14.06.07. In the meantime, on consideration of the representation of the Applicant, the Authorities passed an order on 21.06.07 disposing of the representation of the Applicant. On 29.06.2007 and 06.07.2007 the Applicant submitted Appeals to the Department. On a further review of the matter, his suspension was extended w.e.f. 07.09.2007 vide order dated 31.08.2007. On a further review of the matter, his suspension has been extended (vide order dated 04.12.2007) w.e.f. 05.12.2007.

4. The Applicant has raised a point that since he was placed under deemed suspension w.e.f. 14.06.06 and, since no review was conducted to examine the continuance (or otherwise) of his suspension within 90 days from 14.06.06, he should have been reinstated; for, as per the submission of the Ld. Counsel for the Applicant, the suspension become invalid on expiry of 90 days from 14.06.06.

5. On close scrutiny of the Rule position (as given out in Rule -10 of the CCS (CCA) Rules, 1965), it is seen that the review was required to be done within 90 days from the date of issuance of the order placing the Applicant under suspension (and not from the date of deemed suspension) and, therefore, it cannot be said that the continuation of the suspension beyond 90 days was bad in any manner; because review was done within 90 days from the date of passing of the order of suspension/ 06.07.2006.

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6. In course of hearing Mr. Patnaik Ld. Counsel appearing for the Applicant pointed out that by order dated 23.10.2007 the Authorities have intimated the Applicant that since the matter is sub-judice before this Tribunal; the representation of the Applicant did not receive any consideration. The present O.A. was never admitted and, therefore, Respondents were free to consider the grievances of the Applicant even during pendency of this case.

7. The Advocate appearing for the Applicant has pointed out that investigation in the criminal case is now over and the CBI Police has already submitted charge-sheet against him in the Criminal Court and that this intervening circumstances should receive due consideration of the competent authorities to examine the matter for revocation of the suspension order.

8. While parting with this case, we direct the Respondents to consider the representations dated 29.06.2007 and 06.07.2007 of the Applicant (by keeping in mind the factum about completion of the inquiry and submission of charge-sheet in the Criminal Court). They should examine as to whether the 2nd Review dated 18.12.2006 was done within the extended period or not and pass a reasoned order within 30 days from the date of receipt of a copy of this order.

9. With the aforesaid observation and direction this case stands disposed of.


MEMBER (A)


VICE-CHAIRMAN