

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 433 of 2011

Monday, this the 10th day of October, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

A. Ganesan, aged 55 years, S/o. G.S. Arumugham,
 Peon, Office of the Protector of Emigrants, 3rd Floor,
 Putherickal Building, Market Road, Cochin-682 011,
 Permanent Address : G.S. Bhavan, TC No. 23/1165,
 Melarannoor, Karamana P.O., Thiruvananthapuram-
 695 002.

Applicant

(By Advocate – Mr. T.C. Govindaswamy)

V e r s u s

1. The Union of India, represented by the Secretary,
 to the Government of India, Ministry of Overseas
 Indian Affairs, Akbar Bhavan, Chanakyapuri,
 New Delhi-110 021.
2. The Protector of Emigrants, Office of the Protector of
 Emigrants, 3rd Floor, Putherickal Building, Market Road,
 Cochin-682 011.
3. The Deputy Secretary, Ministry of Overseas Indian Affairs,
 Akbar Bhavan, Chanakyapuri,
 New Delhi – 110 021.

Respondents

(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

This application having been heard on 10.10.2011, the Tribunal on the
 same day delivered the following:

ORDER

By Hon'ble Mr. Justice P.R. Raman, Judicial Member -

The applicant is a Peon who was working under the second
 respondent, the Protector of Emigrants, Cochin. He was kept under

M

- suspension by Annexure A-1 order dated 12th February, 2007 which reads that the applicant Ganesan against whom there is a criminal case under investigation and he was kept under detained custody on 8th February, 2007 for a period exceeding 48 hours. Accordingly, he is deemed to have been suspended from the date of detention namely 8th February, 2007 in terms of sub-rule (2) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 [hereinafter to be referred as CCS (CCA) Rules, 1965] and shall remain under suspension until further orders.

2. As per sub Rule (6) of Rule 10 of CCS (CCA) Rules, 1965 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 ninety days from the effective date 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 one hundred and eighty days at a time. As per sub-rule (7) of the aforesaid rules 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 of ninety days unless it is extended after review, for a further period before the expiry of ninety days.

3. In the case of the applicant the order of suspension originally made was reviewed by order dated 31st May, 2007 for a further period of 180 days as is evident from Annexure A-2. But the 90 days period from the date of

the original order expired on 9.5.2007. Thus the first extension order made was beyond the period of 90 days and thus invalid as per sub-rule (7) of Rule 10 of the CCS (CCA) Rules, 1965. Vide Annexure A-2 it was further extended for a further period of 90 days beyond 4.11.2007. Vide Annexure A-3 order dated 15th February, 2008 the suspension was continued and it was extended up to 1st August, 2008. Annexure A-3 itself was passed beyond 90 days of first extension. Thereafter, the further extension was made by Annexure A-5. It is contended that in so far as the first extension it is beyond the 90 days period and thus the order became invalid and subsequent extensions cannot give life to the first extension order. In other words once an order has been passed beyond the period automatically the result would follow and the order would become invalid. If there is no order in the eye of law the question of extending the suspension further does not arise. In the case of Union of India & Ors. Vs. Dipak Mali – 2010 (2) ASLJ 288 it was held that since the review had not been conducted within 90 days from the date of suspension, it became invalid after 90 days, since neither was there any review nor extension within the said period of 90 days. Subsequent review and extension, in our view, could not revive the order which had already become invalid after the expiry of 90 days from the date of suspension.

4. The factual position as detailed above is beyond dispute in the reply affidavit. Even though as per the reply statement he has been ordered to be reinstated what we are concerned here is the legality or otherwise of the various orders passed extending the suspension beyond the first 90 days. In

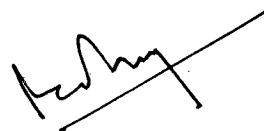


so far as the first extension is beyond the period of 90 days provided for and which became invalid by virtue of sub-rule (7) of Rule 10 of CCS (CCA) Rules, 1965, we hold that the subsequent orders passed in the case of the applicant extending the suspension is per se invalid. Accordingly, the orders Annexures A-2 to A-9 are quashed. In the absence of the order produced, extending the suspension beyond 90 days period, as is referred to in Annexure A-2 we are not quashing the same but declare that such extension is bad in law as the extension so made is admitted in Annexure A-2 only after the said 90 days period.

5. In the light what is stated above, the applicant would be deemed to be under suspension only for the first 90 days period and extension of his suspension beyond the period of 90 days having been found invalid, he would be deemed to be in service with all consequential benefits. OA stands allowed as above. No order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

“SA”