

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 138 of 2011

TUESDAY, this the 12th day of February, 2013

CORAM:

**HON'BLE MR.JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE MR.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

P.P.Surendran, aged 56 years,
S/o (late) Paramu,
Peon,
Directorate of Cashewnut & Cocoa Development,
Kochi-11
Residing at: Puduvelil House, Cherai - 683 514,
Ernakulam District. **Applicant.**

(By Advocate: Mr. T.C.Govindaswamy)

versus

1. Union of India, represented by
The Secretary to the Government of India,
Ministry of Agriculture,
Department of Agriculture & Co-operation,
Krishi Bhavan, New Delhi – 110 001
2. The Director,
Directorate of Cashewnut & Cocoa Development,
Ministry of Agriculture,
(Department of Agriculture & Co-operation),
Kera Bhavan, Kochi - 682 011.
3. Shri M.Tamil Selvan, Director,
Directorate of Arecanut & Spices Development,
Ministry of Agriculture,
(Department of Agriculture & Co-operation),
Calicut - 673 005.
4. Shri Venkatesh N.Hubballi, Director,
Directorate of Cashewnut & Cocoa Development
Ministry of Agriculture,
(Department of Agriculture & Co-operation),
Kera Bhavan, Kochi - 682 011.
5. The Additional Commissioner (Hort.),
Ministry of Agriculture,
(Department of Agriculture & Co-operation),
Krishi Bhavan, New Delhi – 110 001 **Respondents.**

(By Advocate Mr. Sunil Jacob Jose, SCGSC)



This Application having been heard on 29.01.2013, the Tribunal on 12-02-13 delivered the following:

ORDER

HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER:

The applicant was placed under suspension pending enquiry into the charges of wilful insubordination and physical intimidation on 02.04.2008. As the disciplinary authority himself was a prime witness, ad hoc disciplinary authority was subsequently appointed to enquire into the charges pertaining to the incident on 02.04.2008. The applicant was issued with a charge sheet on 02.01.1009 setting out 09 articles of charges out of which only 02 were pertaining to the incidents on 02.04.2008. Hence it was challenged in O.A. No. 783/2009 which was allowed by the Tribunal on 18.06.2010. In O.A. No. 377/2011, the applicant submitted that the 3rd respondent therein was completely biased and prejudiced against him. He apprehended that he would not get justice at his hands. The said O.A was disposed of with a direction to the 1st respondent therein to ensure that in the place of the 3rd respondent, another ad hoc disciplinary authority should be appointed to consider the enquiry report and to take further action as per rules. In the instant O.A, the applicant challenges the order dated 13.01.2011 extending his suspension by 120 days with effect from 16.01.2011 as his presence in office is considered highly prejudicial to the completion of enquiry ordered under Rule 14 of the CCS (CCA) Rules, 1965. The applicant has prayed for quashing the orders extending his suspension.

2. The applicant contended that no valid review committee has been constituted to review his suspension and that the order of his suspension was

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was issued mechanically without any application of mind. There is no justifiable reason for extending the order of suspension of the applicant even after the lapse of 03 years. The statutory appeal submitted by the applicant has not yet been disposed of by the competent authority.

3. In the reply statement filed on behalf of the respondents, it was stated that the appeal preferred by the applicant was considered by the competent authority and was disposed of by Annexure A-8 letter. A Review Committee has been constituted in the Ministry of Agriculture, Department of Agriculture and Co-operation, New Delhi, in accordance with the instructions contained in O.M dated 07.01.2004 at Annexure A-9. The reason for extending the period of suspension of the applicant is indicated in the Annexure A-1 order.

4. We have heard Mr. T.C. Govindaswamy, learned counsel for the applicant and Mr. Sunil Jacob Jose, learned SCGSC, appearing for the respondents and perused the records.

5. The respondents have submitted that the Review Committee has been constituted as per the instructions contained in Annexure A-9. The applicant has not substantiated his contention that no valid Review Committee has been constituted. The orders extending his suspension showed the reason for doing so. Hence the contention of the applicant that the orders extending his suspension order are issued without any application of mind, is not correct. But it is seen that the applicant is continuing under suspension since 02.04.2008, which is more than 04 years now. During hearing, it was submitted by the respondents that the enquiry has been completed and that

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the enquiry report is to be considered by the ad hoc disciplinary authority as per the direction given in O.A. No. 377/2011. If so, his presence in the office cannot be considered as highly prejudicial to the completion of enquiry ordered under Rule 14 of the CCS (CCA) Rules, 1965. As per the instructions of the Government of India, suspension cannot be continued beyond the minimum period for which it is essentially required. Prolonging the continuance of suspension when enquiry is unduly delayed would smack of malafide. As suspension constitutes great hardship, in fairness to the Government servant, its period should be reduced to the barest minimum. If suspension is unduly prolonged, it also entails infructuous expenditure to the Government by way of payment of subsistence allowance. The rules of natural justice require that when a Government servant is placed under suspension, the total period of suspension both in respect of investigation and disciplinary proceedings should not ordinarily exceed six months. In exceptional cases where it is not possible to adhere to the time-limit, the disciplinary authority should report the matter to the next higher authority explaining the reasons for the delay.

6. In view of the above, we are of the considered opinion that the continuation of the suspension of the applicant should be reviewed in the interest of justice and fair play. Accordingly, it is ordered as under. The respondents are directed to consider whether the continued suspension of the applicant is necessary or not and decide the issue by a speaking order and communicate the same to the applicant within a period of 60 days from the date of receipt of a copy of this order, failing which the applicant will stand reinstated in service.

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7. The O.A. is disposed of as above with no order as to costs.

(Dated, the 12th February, 2013)



K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

CVR.