

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 218 of 2008

Wednesday, this the 28th day of October, 2009

C O R A M :

**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER
HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

L.S. Pawar,
Additional Commissioner of Income Tax,
Office of Chief Commissioner of Income Tax,
Cochin,
Now residing at 16-F, Link Heights,
Panampilly Nagar, Kochi, Kerala. **Applicant.**

(By Advocate Mr. K.R. Dandapani (Sr.) with Ms. P.K. Nandini)

v e r s u s

1. Union of India, represented by
The Revenue Secretary,
Ministry of Finance, North Block,
New Delhi.
2. Chairman,
Central Board of Direct Taxes (Income Tax),
Government of India, North Block,
New Delhi.
3. The Chief Commissioner of Income Tax,
C.R. Building, I.S. Press Road,
Kochi, Kerala. **Respondents.**

(By Advocate Mr. Varghese P. Thomas, ACGSC)

The Original Application having been heard on 22.10.09, this Tribunal
on 28-10-09 delivered the following :

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

An order of suspension, passed on 13-03-2001 (Annexure A-1), in
respect of the applicant, continues through the strength of subsequent orders

extending, on the basis of recommendations of the Reviewing authorities, the period of suspension, and the applicant, terming the continued suspension as totally unreasonable, arbitrary and stigmatizing, has filed this O.A. seeking the relief of quashing of the orders of suspension (initial order dated 13-03-2001 and further orders continuing suspension) and for a direction to the respondents to reinstate him. During this journey of suspension, the applicant did file an OA before the Principal Bench in 2004 (OA No. 1224/2004) challenging the initial order of suspension dated 13-03-2001, which was dismissed after detailed discussion, vide Annexure A-3. Hence, in so far as order dated 13th March, 2001, though quashing of the same is sought in this O.A. also, the same cannot be dealt with in this OA due to the legal bar under *res-judicata*. What survives then is the challenge against the continued suspension in the wake of recommendations by the review committee and this order confines itself to that extent.

2. For dealing with the issue of legality of suspension or continued suspension, the facts of the case, as elaborately explained in the pleadings need not be gone into. Suffice it to state that the applicant functioning in the Income tax Department as Additional Commissioner of Income tax has to face criminal proceedings under the provisions of Prevention of Corruption Act due to alleged accumulation of wealth beyond the known sources of income, which cases (two in number) still continue and in addition, two departmental proceedings are also pending. The applicant has been kept under suspension on the basis of the criminal case under investigation, vide Annexure A-1. Till 2004, there was no provision for periodical review of such suspension and the Government had introduced w.e.f. 03-01-2004 for periodical review of suspension, vide sub Rule 10(6) of the CCS (CC&A) Rules 1965 and since then, the respondents have been conducting the review and acted on the basis of the recommendations of

the review committee. Such a review, as verified from the original records made available to the Tribunal conforms to the rules, as it could be seen from the details given below:

<i>Date of Review</i>	<i>Recommendations</i>	<i>Date of Communication</i>
01.04.2004	To continue suspension	02.04.2004
25.08.2004	- do -	21.09.2004
18.02.2005	- do -	17.03.2005
22/25.08.05	- do -	09.09.2005
21.02.2006	- do -	08.03.2006
22.08.2006	- do -	04.09.2006
08.01.2007	- do -	02.03.2007
16/21.08.07	- do -	28.08.2007
18.02.2008	- do -	22.02.2008
08.08.2008	- do -	14.08.2008
03.02.2009	-do-	12.02.2009
03.08.2009	-do-	11-08-2009

3. The legal question is whether the continued suspension of a senior officer for over 7 years plus is legally sustainable.

4. The following are the decisions, heavily relied upon by the senior counsel for the Applicant:-

(a) Vikraman Nair K. vs. State of Kerala and Others, 2008 (4) KHC 412 :

"8. No doubt, this Court while exercising jurisdiction under Article 226 of the Constitution is not sitting as a Court of appeal or revision so that this Court can substitute the order challenged with its own decision. But it also the settled position of law that this Court can certainly interfere when, among other things, it is revealed that the authority concerned which took the impugned decision has reached an unreasonable decision or has abused its



powers. It is also the position of law that this Court can review and evaluate question of fact for the limited purpose of scrutinising the decision making process. While examining and scrutinising the decision making process it may become inevitable for this Court to appreciate the facts of a given case even though for the limited purpose of ascertaining among other things, whether the authority concerned has reached an unreasonable decision or has abused its powers. Reminding ourselves about this legal position we shall consider whether interference is required with Exhibits P11 and P12 dated 18.04.2008 and 29.04.2008 respectively."

**(b) Abullais Khan Vs. The State of West Bengal & Ors.,
A.T.R. 1986 (2) C.A.T. 97 :**

"Held:

Where the authorities have already taken possession of all the relevant materials sought to be relied upon by the prosecution and the departmental proceeding has reached a stage for commencement and there is also no question of tampering with any official document by the applicant because everything has come into possession of the Government during the suspension of the applicant for about two years and where nothing more is left for the Government to be apprehensive regarding any foul play to be adopted by the applicant and where the order of suspension was also not passed as a measure of punishment but only as an interim measure adopted for the interest of administration then the interest of administration would be no more at jeopardy and, therefore, any further action in keeping the applicant under suspension would be unfair and unjust. In other words, when there can be no question of tampering with any official document because within a long period of two years of suspension of the applicant everything must have come into possession of the Government then no fruitful purpose would be achieved if the applicant is made to continue under suspension. The order of suspension was set aside by the Tribunal."



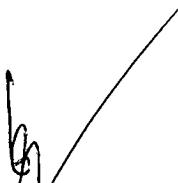
**(c) Syed Jameluddin Ali Vs. Union of India & Ors.,
A.T.R. 1987(1) C.A.T. 640 :**

"9. It is a general principle followed in the Government departments that in respect of cases other than those pending in the Courts, the total period of suspension should not exceed six months except in exceptional cases where it is not possible to adhere to this time limit then the competent authority should make a report to the next higher authority explaining the reasons delay. The higher authority should there carefully consider whether the suspension order should continue or it should be revoked, if necessary by transferring the official to another post or office. We have noted that in this case, much of the time between the order of suspension and the filling of the writ application after 8 months in August, 1980 was spent in matters relating to facilities for furnishing of written statement by the applicant in reply to the charges and the matter of change of the Inquiry Officer. But still the concerned authorities should have considered after expiry of six months from the date of suspension whether the continued suspension was absolutely necessary or the services of the stenographer, which are in shortage every where, could be utilised elsewhere by reinstating the applicant and appointing him elsewhere.

(d) D. Mangaleswaran Vs. Commissioner of Income Tax, Tamil Nadu and Anr., (1987) 2 ATC 828 :

"12. Then comes the following instructions which are quite relevant for this case :

(i) If the investigation is likely to take more time, it should be considered whether the suspension order should be revoked and the officer permitted to resume duty. If the presence of the officer is considered detrimental to the collection of evidence etc. or if he is likely to tamper with the evidence, he may be transferred on revocation of the suspension order; (emphasis supplied)



- (ii) If the investigation, framing of charges and the disciplinary proceedings cannot be completed within six months and the total period of suspension exceeds six months, the disciplinary authority should report the matter to the next higher authority explaining the reasons for the delay;
- (iii) Since the unduly long suspension causes undue hardship and involves payment of subsistence allowance without the employees performing any useful service to the Government the authorities concerned should scrupulously observe the time limits set out above and review the cases of suspension to see whether continued suspension in all cases is really necessary. The authorities superior to the disciplinary authorities should also exercise a strict check on cases in which delay has occurred and give appropriate directions to the disciplinary authorities keeping in view the above provisions."

(e) **O.P. Gupta vs. Union of India and Ors.**, (1987) 4 SCC 328 :

*"15. We have set out the facts in sufficient detail to show that there is no presumption that the government always acts in a manner which is just and fair. There was no occasion whatever to protract the departmental inquiry for a period of 20 years and keeping the appellant under suspension for a period of nearly 11 years unless it was actuated with the mala fide intention of subjecting him to harassment. The charge framed against the appellant was serious enough to merit his dismissal from service. Apparently, the departmental authorities were not in a position to substantiate the charge. But that was no reason for keeping the departmental proceedings alive for a period of 20 years and not to have revoked the order of suspension for over 11 years. An order of suspension of a government servant does not put an end to his service under the government. He continues to be a member of the service in spite of the order of suspension. The real effect of the order of suspension as explained by this Court in *Khem Chand v. Union of India**

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is that he continues to be a member of the government service but is not permitted to work and further during the period of suspension he is paid only some allowance — generally called subsistence allowance — which is normally less than the salary instead of the pay and allowances he would have been entitled to if he had not been suspended. There is no doubt that an order of suspension, unless the departmental inquiry is concluded within a reasonable time, affects a government servant injuriously. The very expression "subsistence allowance" has an undeniable penal significance. The dictionary meaning of the word "subsist" as given in Shorter Oxford English Dictionary, Vol. II at p. 2171 is "to remain alive as on food; to continue to exist". "Subsistence" means — means of supporting life, especially a minimum livelihood. Although suspension is not one of the punishments specified in Rule 11 of the Rules, an order of suspension is not to be lightly passed against the government servant. In the case of Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nadkarni the court held that the expression "life" does not merely connote animal existence or a continued drudgery through life. The expression "life" has a much wider meaning. Suspension in a case like the present where there was no question of inflicting any departmental punishment *prima facie* tantamounts to imposition of penalty which is manifestly repugnant to the principles of natural justice and fair play in action. The conditions of service are within the executive power of the State or its legislative power under the proviso to Article 309 of the Constitution, but even so such rules have to be reasonable and fair and not grossly unjust. It is a clear principle of natural justice that the delinquent officer when placed under suspension is entitled to represent that the departmental proceedings should be concluded with reasonable diligence and within a reasonable period of time. If such a principle were not to be recognised, it would imply that the executive is being vested with a totally arbitrary and unfettered power of placing its officers under disability and distress for an indefinite duration."

(f) P. Eswar Jitendra Vs. Gen. Manger, Indian Govt.
MINT Hyderabad and Ors., (1988) 8 ATC 469 :

"7. The applicant has also urged that his continued suspension without expediting the inquiry is bad. It is well settled that although suspension by itself is not a prolonged period without issue of a charge-memo would take a penal character. It was observed in State of Madras Vs. K.A. Joseph as follows :

There is a very clear and distinct principle of natural justice, that an officer is entitled to ask, if he is suspended from his office because of grave averments or grave reports of misconduct, that the matter should be investigated with reasonable diligence, and that charges should be framed against him within a reasonable period of time. If such a principle were not to be recognised, it would imply that the executive is being vested with a total, arbitrary and unfettered power of placing its officers under disability and distress, for an indefinite duration."

**(g) J.K. Varshneya Vs. Union of India and Ors.,
(1988) 8 ATC 1 :**

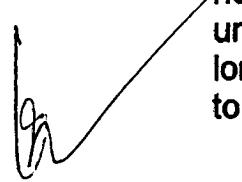
"16. From the charge-sheet, it is evident that the entire record which forms the basis of the charge is in the custody of the Delhi Development Authority. That record is of the Delhi Development Authority. Witnesses who may be examined in support of these charges are the servants of the Delhi Development Authority. The applicant having been repatriated to the Central Public Works Department, his parent department the witnesses who are the servants of the Delhi Development Authority would not be under his control or influence. He has been under suspension now for more than 2 years. The suspension is neither intended to be by way of punishment nor should it operate as such. It is only intended to facilitate the inquiry. Now that the entire record is in the possession of the Delhi Development

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Authority and none of the witnesses is under the control of the applicant, there can be no apprehension of the witnesses being in any way influenced and any evidence being tampered with; his suspension is not necessary for facilitating the inquiry into the charges levelled against him. Except this charge, there is no other allegation. His house was raided by the Central Bureau of Investigation on 18-6-1986 and even as admitted in the counter filed by the respondents the Central Bureau of Investigation sent an investigation report to the Ministry stating that nothing incriminating was found against the applicant. The nature of the charge also do not warrant his continued suspension. The suspension order is quashed with immediate effect and the applicant shall be reinstated in service forthwith."

(h) Andayil Rajakrishnan vs. Union of India and Ors., (1988) 6 ATC 597 :

"6. There is however, much substance in the grievance of Mr. Shetty that the applicant has been kept under suspension for about 8 or 9 years and that this is neither just nor legal. The applicant was under suspension during earlier enquiry. Ordinarily, that suspension would have come to an end after the High Court quashed the compulsory retirement order. However, the authorities concerned have issued a fresh suspension order on 28-7-1982 on the ground that another enquiry is proposed to be held against him. It is however, material to note that even after 4 years, such an enquiry has not as yet been initiated. It is true that the competent authority has power to keep an employee under suspension pending enquiry, but that power has to be exercised judiciously. We fail to understand, as to why, the departmental enquiry has not been initiated for a long period of 4 years after the suspension order of 1982. Secondly, the allegations against the petitioner as mentioned in the earlier charge sheet would not warrant that the applicant should be kept under suspension for such an inordinately long period. Hence the suspension is liable to be revoked."



(i) M.H. Rahman vs. Collector of Customs, Madras, (1989) 10 ATC 88 :

"6. On a perusal of the concerned file it is seen that it was on account of contemplated proceedings under the Customs Act that during the earlier stages the suspension was continued. But no proceedings have been initiated under the Customs Act, evidently on the legal advice that there is no scope to do so. Even thereafter, when the case of the applicant came up for review the decision is seen to have been taken to continue the suspension, for no valid reason. No doubt a reference has been made to the filing of the present application before this Tribunal. It appears that the decision was taken to continue the suspension till the disposal of the disciplinary proceedings, the only ground being that the applicant was detained under COFEPOSA. We are not satisfied that merely because the applicant was detained under COFEPOSA his suspension can be continued, which has been made only in contemplation of the initiation of the disciplinary proceedings against him for the alleged abetment in the smuggling operations committed by certain others. As no proceedings have been taken against the applicant under the Customs Act, and since no memorandum of charges has been issued to the applicant in the departmental proceedings even after the expiry of two years and a half from the date of suspension we hold that there is no justification for continuing the suspension, especially when there is no case for the respondents that by joining duty the applicant will in any way interfere with the conduct of the enquiry."

(ii) C.L. Bakolia vs. Union of India and Ors., (1989) 10 ATC 75 :

"2. In J.S. Chauhan Vs. State of U.P., the Allahabad High Court has held :

If a government servant is placed under suspension for an indefinite period of time, it would certainly be

against public interest and is liable to be struck down.

There are also standing instructions that the disciplinary proceedings themselves should be expeditiously disposed of and the government servant should not be kept under suspension indefinitely. Suffice to refer to O.M. dated 14-9-1978 issued by the Government of India, Ministry of Home Affairs which reads as follows :

In spite of the instructions referred to above, instances have come to notice in which government servants continued to be under suspension for unduly long periods. Such unduly long suspension, while putting the employee concerned to undue hardship, involves payment of subsistence allowance without the employee performing any useful service to the government. It is, therefore, impressed on all the authorities concerned that they should scrupulously observe the time-limits laid down in the preceding paragraph and review the cases of suspension to see whether continued suspension in all cases is really necessary. The authorities superior to the disciplinary authorities should also give appropriate directions to the disciplinary authorities keeping in view the provisions contained above."

(k) **Ramoo Ramesh vs. Andhra Bank, 1992 (2) KLT 71 :**

" Petitioner has been kept under suspension for more than 8 years. The Bank should have got the charges enquired into within a reasonable period of time. If the disciplinary proceedings are allowed to continue for an indefinitely long period and the officer kept under suspension, it would imply that the Bank is vested with a total arbitrary and unfettered power of placing its officer under suspension for an indefinite duration. No Court can accept such a power with the Bank. Petitioner has been kept under suspension almost for 8 years. By virtue of the order of this Court, he is being paid full salary. But, he has not given a posting.

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There is no justification in this action on the part of the Bank. If the guilt is established, he is bound to be suitably punished in accordance with law. But, he is not to be kept under suspension for such a long period."

(I) Haridas Vs. District Judge, 1993 (2) KLT 297 :

"Normally, in exercise of the extraordinary jurisdiction vested under Article 226 of the Constitution of India this court will be loathe to interfere with an order to suspension passed by a competent authority against a public servant. But once it is found that the order of suspension has been allowed to remain for an unreasonably long period (in this case for more than 9 years) without any compelling reason or where the continuance of suspension by its unduly long duration is itself in the nature of substantive punishment as it keeps the Government servant out of service notwithstanding the fact that the relationship of master and servant (vinculum-juris) is not snapped and results in substantial reduction in emoluments this Court cannot sit with folded hands turning a Nelson's eye to the gross injustice meted out to the public servant conveniently forgetting the role of this court as sentinel - on the qui vive. To concede to the competent authority unfettered and unguided power of suspension will tantamount to putting a premium for arbitrariness and unfairness which is just the antithesis of the concept of equality and fairness adumbrated under Article 14 of the Constitution of India. It is now well settled that an unfair, irrational and unreasonable decision would be constitutionally unsustainable. These principles apart, indefinite suspension of the civil servant besides stigmatising him to a great extent has the super-added disability and the pernicious effect of demoralising him to a great extent even when he is reinstated which cuts at the very root of the efficiency of civil service. The respondents have no case that reinstatement of the petitioner will in any way hamper the investigation which is already over or that the petitioner will intimidate witnesses or flee from justice. In

the absence of such circumstances the fundamental basis to keep the petitioner under suspension had disappeared and he is entitled to be reinstated in service forthwith."

5. Counsel for the respondents submitted that the charge against the applicant being very grave in nature, and the authorities competent to conduct the review have systematically dealt with the case, there being no legal lacuna in the decision making process, the order of suspension (which is not a penalty) be not interfered with.

6. Arguments were heard and documents perused. First as to the rules on suspension. Rule 10 is the pivotal provision around which the controversy revolves, and it reads as follows:

"10. Suspension.—(1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the President, by general or special order, may place a government servant under suspension—

- (a) where a disciplinary proceeding against him is contemplated or is pending; or
- (aa) where, in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or
- (b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial;

Provided that, except in case of an order of suspension made by the Comptroller and Auditor-General in regard to a member of the Indian Audit and Accounts Service and in regard to an Assistant Accountant-General or equivalent (other than a regular member of the Indian Audit and Accounts Service), where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

(2) A government servant shall be deemed to have been placed under suspension by an order of appointing authority—

- (a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;
- (b) with effect from the date of his conviction, if, in the event

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of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Explanation.—The period of forty-eight hours referred to in clause (b) of this sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a government servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a government servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the court has passed an order purely on technical grounds without going into the merits of the case.

(5)(a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the government servant shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate."

(6) 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 date of order 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 the 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.

(7) Notwithstanding anything contained in sub-rule (5)(a), an order of suspension made or deemed to have been made under sub-rule (1) or (3) 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."

7. Rule 6, on the basis of which periodical reviews take place had been passed in December 2003 and had been made effective from 03.01.2004. In so far as the past cases of suspension are concerned, the first review had to take place before the expiry of 90 days from 03-01-2004.

8. As earlier specified, in all 12 reviews had taken place and the records show that the review is not with reference to the applicant himself but in respect of all those who have been kept under suspension. In all, detailed notes in respect of all those whose case had been considered had been discussed at length and recommendations made. The fact that a case has been registered has also been indicated in the minutes of the meeting.

9. In general, as to the character of suspension, vide the decision of the Apex Court in *P.L. Shah v. Union of India*, (1989) 1 SCC 546, the Apex Court has held as under:-

"6. An order of suspension is not an order imposing punishment on a person found to be guilty. It is an order made against him before he is found guilty to ensure smooth disposal of the proceedings initiated against him. Such proceedings should be completed expeditiously in the public interest and also in the interest of the government servant concerned."

10. Again, in *State of Orissa v. Bimal Kumar Mohanty*, (1994) 4 SCC 126, the Apex Court has observed as under:-

" Suspension is not a punishment but is only one of forbidding or disabling an employee to discharge the duties of office or post held by

him. In other words it is to refrain him to avail further opportunity to perpetrate the alleged misconduct or to remove the impression among the members of service that dereliction of duty would pay fruits and the offending employee could get away even pending inquiry without any impediment or to prevent an opportunity to the delinquent officer to scuttle the inquiry or investigation or to win over the witnesses or the delinquent having had the opportunity in office to impede the progress of the investigation or inquiry etc. But as stated earlier, each case must be considered depending on the nature of the allegations, gravity of the situation and the indelible impact it creates on the service for the continuance of the delinquent employee in service pending inquiry or contemplated inquiry or investigation. It would be another thing if the action is actuated by *mala fides*, arbitrary or for ulterior purpose. The suspension must be a step in aid to the ultimate result of the investigation or inquiry. The authority also should keep in mind public interest of the impact of the delinquent's continuance in office while facing departmental inquiry or trial of a criminal charge."

11. From the above, it is clear that revocation of suspension could be ordered when the suspension had been found most arbitrary. Each case has to be valued on the basis of its own facts and circumstance.

12. The plethora of decisions relied upon by the senior Counsel for the applicant are all decisions prior to introduction of sub Rule 6. The position prior to the coming into force of Rule 10(6) was that departmental proceedings wherein suspension is involved, were to be completed as expeditiously as possible. Under that circumstance, continued suspension without issue of charge sheet etc., beyond six months' period was considered to be inappropriate. However, under sub rule 6 of Rule 10, provision exists for constitution of a review committee to consider as to whether the individual under suspension should continue to be or released from service and such a review, for the first time would be conducted within 90 days, may, thereafter be held to consider continuance of suspension for a further period of 180 days. Thus, the provision would go to show that the Government has consciously prescribed the above review procedure. The power given to the review committee is to recommend either revocation of suspension or continuance thereof and in each case reasons are spelt out. With the latest addition to the provisions of the

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Rules relating to suspension, the earlier situation cannot thus be compared. In the case of the applicant, as there are two criminal cases and two departmental proceedings pending, the committee recommended continuance. It is pertinent to point out here that the review committee had considered the case of the applicant not in isolation but with other cases and case of 1999 suspension too has been recommended to continue. Substantial justification has been given in such cases for continuance of suspension, and on going through the same in respect of the applicant, no arbitrariness or unreasonableness could be discerned from the same.

13. In view of the above, no legal infirmity could be discerned from the decision of the respondents in continuing the suspension of the applicant. Of course, if the applicant has any grievance relating to his Headquarters, as projected by the senior counsel for the applicant, on his filing representation, the respondents shall consider the same in accordance with law.

14. With the above limited observation, the OA is dismissed. No costs.

(Dated, the 28th October, 2009)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



Dr. K B S RAJAN
JUDICIAL MEMBER