

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 129 of 2011

This the 17th day of April, 2012

Hon'ble Mr. Justice Alok K Singh, Member-J
Hon'ble Mr. S.P. Singh, Member-A

Dr. Jageshwar Prasad, aged about 57 years, S/o late Sri Dwaika Prasad, R/o 19/227, Indira Nagar, Lucknow (lastly working as Chief Medical Officer, Central Government Health Scheme, Wellness Centre no VI, Lucknow.

.....Applicant

By Advocate : Sri R.C. Singh

Versus.

1. Union of India through the Secretary, Ministry of Health & Family Welfare, New Delhi.
2. Additional Secretary & Director General (Central Government Health Scheme), Nirman Bhawan, New Delhi.
3. Director, Central Government Health Scheme, New Delhi.
4. Additional Director, Government of India, Central Government Health Scheme, 9-A Rana Pratap Marg, Lucknow.
5. Sri A.K. Singh, Additional Superintendent of Police, CBI, Lucknow.

.....Respondents.

By Advocate : Sri Rajendra Singh

O R D E R (Oral)

By Justice Alok K Singh, Member-J

M.P. no. 254/12: This is an application for deciding the O.A. finally. It was moved on 2.2.2012. The respondents were given time to file objection, but no objection has been filed even after lapse of about more than 02 months. It has been said in this application that earlier the suspension order dated 25.1.2011 was revoked by this Tribunal vide order dated 18.5.2011 for failure on the part of the disciplinary authority to review the suspension order within 90 days from the date of suspension as has been mandated by amended provisions of

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Rule 10(6) and (7) of CCS (CCA) Rules, 1965. Initially the respondents did not permit him to join, then he filed CCP no. 23 of 2011 on 27.7.2011. Consequent upon receiving the contempt notice from this Tribunal, the respondents immediately issued the letter dated 2.8.2011 allowing the applicant to join duty. In the Counter Reply, it has also come that the respondents have paid full salary from 26.4.2011. In view of the above, this M.P. is allowed and O.A. is being taken up for final disposal particularly having regard to the fact that till date no chargesheet has been served.

2. Heard the arguments at length and perused the material available on record.

3. The applicant has sought the following relief(s):

“(a) issuing/passing of an order or direction setting the impugned suspension order dated 25.1.2011, issued under authentication of the respondent no.3 with the approval of the respondent no.2 and the consequential order dated 25.1.2011 issued by the respondent no.4 (as contained in Annexure nos. A-1 and A-2 respectively, to this Original Application), after summoning the original records.

(b) issuing/passing of any other order or direction as this Hon’ble Tribunal may deem fit in the circumstances of the case.

(c) allowing this Original Application with costs”

4. In contemplation of departmental proceedings, the applicant was placed under suspension vide order dated 25.1.2011 (Annexure-1). This O.A. was filed on 23.3.2011 and Counter and Rejoinder Affidavits have been exchanged between the parties.

5. On 4.5.2011, an interim relief application was moved in the light of Rule 10 (6) (7) of CCS (CCA) Rules, 1965 which now mandates that an order of suspension made or deemed to have been made under sub-rules (1) or (2) of this Rule shall not be valid after a period of 90 days unless it is extended after review, for a further period before the expiry of ninety days. After hearing the rival submissions, a detailed order was passed on 18.5.2011 by means of which M.P. no. 1171 of 2011 was

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allowed observing that in view of the aforesaid amended provisions, the impugned suspension order has become non-est because nothing could be brought on record on behalf of the respondents to show that the suspension order was extended after review for a further period before expiry of 90 days. Consequently, the respondents were directed to allow the applicant to rejoin his duty and pay him full salary from 26.4.2011 onwards regularly without prejudice to the final outcome of this O.A. unless there is some valid reasons for not doing so. At the same time, it was clarified that this order would not be construed as an embargo or impediment in proceeding with the enquiry, if any, by the respondents because by means of this O.A., only impugned suspension order has been challenged.

6. In furtherance of the aforesaid order, as already mentioned above, the suspension order was revoked w.e.f. 26.4.2011 and the salary was paid w.e.f. 26.4.2011 onwards.

7. Now the quarrel is on the point that the impugned suspension order has to be set-aside so that the balance salary for the period from 25.1.2011 to 25.4.2011 may be paid to the applicant.

8. The latest amendment incorporated under Rule 10(6) and (7) of CCS (CCA) Rules, 1965 are as under:

"(6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority 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 order 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.

(7) Notwithstanding anything contained in sub-rule 5, 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 ninety days unless it is extended after review, for a further period before the expiry of ninety days."

9. In the entire Counter Affidavit nothing has been said as to why the aforesaid impugned suspension order should not be

set-aside, which is against the aforesaid impugned provisions of Rules of 1965. Orally also, nothing substantial has been said from the side of the respondents.

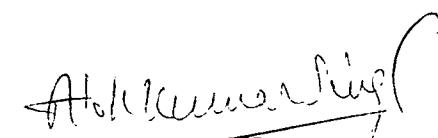
10. In view of the above, impugned suspension order dated 25.1.2011 is hereby set-aside with a direction to the respondents to pay difference of salary from 25.1.2011 to 25.4.2011. On the request of the learned counsel for the applicant, it is also provided that the aforesaid payment may be made within 3 months from today.

11. With these directions, the O.A. is finally disposed of with no order as to costs.



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(S.P. Singh)
M(A)

Girish/-



17.4.2012
Justice Alok K Singh
M(J)