

Original Application No.24 / 1987.

(Judgment of the Tribunal delivered by Hon'ble
Member, Mr. D.Surya Rao)

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The applicant herein is working as a
Supervisor in the O/o. Garrison Engineer (M.E.S.),
Chandrayangutta, Hyderabad. By an order no.130/
15/FIC dated 18th Nov., 1986, the applicant
was placed under suspension with effect from
14-11-86 at 3 P.M. The said order reads as
follows :-

"WHEREAS a case against MES-160300 SHRI
MA SALAM, Supvr B&S II Ty (Sk II Apt) in
respect of a criminal offence is under
investigation/inquiry/trial as per Ins-
pector of Police, Vigilance Cell, CS Dept.,
RR Dist. Letter no.62/VC-RR/86 dated
14-11-86.

NOW, therefore, the undersigned in exer-
cise of powers conferred by sub-rule 9 (2) (a)
of 10 of the Central Civil Services (Classi-
fication, Control and Appeal) Rules, 1965,
hereby informs the said MES-160300 SHRI MA
SALAM, Supvr. B&S II SK II QPT) is deemed
to have been suspended by an order of appoint-
ing authority w.e.f. 14-11-86 at 3 p.m.

It is further ordered that during the period
of that this order shall remain in force the
headquarter of Shri MA Salam, Supvr. B&S II
(SK-II QPT) shall be HYDERABAD and said SHRI
M.A. SALAM shall not leave the headquarters
without obtaining the previous permission of
the undersigned."

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It is this order which is sought to be questioned in this application. The learned Counsel for the applicant contends that an order under Rule 10(2) a) of Central Civil Services (Classification, Control and Appeal Rules), 1965, the period of suspension has to be limited to the period of detention under custody and not indefinitely. He ~~has~~ has relied upon the Judgment of the Central Administrative Tribunal, New Delhi dt.28-11-1986 in M.P.35/86 (A.P. Rao Vs Govt. of A.P. and others) wherein the Tribunal was considering analogous provisions *Services* of All India ~~(Discipline and Appeal)~~ Rules, viz., sub-rules 2 and 3 of Rule 3 of the said rules.

The Tribunal held as follows :-

" A combined reading of the two provisions, sub-rules (2) and (3) of Rule 3, in a way, indicates that the deemed suspension under sub-rule (2) cannot be indefinite or for a period fixed by the State Government. If that were to be so, then the power under sub-rule (3) will become, in relation to such member of the Service, ~~atiose~~. A combined reading of sub-rules (2) and (3) suggests that the deemed suspension can only be for the duration of the period of custody and

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and the Government if so inclined has to pass an order of suspension under sub-rule(3) pending the investigation, inquiry or trial relating to the criminal charge."

Sub-rule (2) of the All India ^{Services} (Discipline and Appeal)

Rules corresponds to the Rule 10(2)(a) of the

Central Civil Services (Classification, Control and Appeal) Rules, whereas sub-rule (3) ^{Corresponds} (relates) to

Rule (1)(b) of the said Rules. The relevant

provisions are almost identical. We follow the

decision of the Central Administrative Tribunal

Delhi Bench and we hold that the impugned order

~~directing the~~ suspension of the official indefi-

nately cannot stand. The suspension under Rule

10(2)(b) of the C.C.S. (C.C.A.) Rules ceases to

exist the moment the applicant has come out of

the custody. It is not denied that the applicant

has been released from custody. It is stated

in the Counter that the applicant was released

on bail on 28-11-1986 by the Criminal Court.

Hence, the order of deemed suspension will cease

to be in force after his release from custody

on 28-11-1986.

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The Learned Counsel for the Central Govt. has contended that even after release ^{on} (of) bail, the applicant is still in custody. We do not agree with the Learned Counsel's contention ^{as} he has not been able to show any rule or provision of law under which such an interpretation can be arrived at.

The application is accordingly allowed.

No order as to costs.

(Dictated in Open Court)

B.N. Jayasimha
(B.N. JAYASIMHA)
Vice Chairman.

D. Surya Rao
(D. SURYA RAO)
Member.

21st January, 1987.