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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

**O.A. No.** 436  
**T.A. No.**

199 9

**DATE OF DECISION** 04. 11. 1999

Ashutosh Bhargava

**Petitioner**

Mr. Ajay Rastogi

**Advocate for the Petitioner (s)**

**Versus**

Union of India and Anr.

**Respondent**

Mr. Sanjay Pareek,

**Advocate for the Respondent (s)**

Mr. U.D.Sharma

**CORAM :**

**The Hon'ble Mr.** MR. GOPAL KRISHNA, VICE CHAIRMAN

**The Hon'ble Mr.** MR. N.P.NAWANI, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*.
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

*N.P. Nawani*  
(N.P.NAWANI)  
Adm. Member

*Gopal Krishna*  
(GOPAL KRISHNA)  
Vice Chairman

Date of order: 04 Nov. 1999

OA No.436/99

Ashutosh Bhargava S/o Shri D.D.Bhargava, aged about 43 years  
r/o 1/9, Gandhi Nagar, Jaipur.

.. Applicant

Versus

1. The Union of India through the Secretary, Ministry of Personnel & Public Grievances & Pensions, Department of Personnel & Training, Government of India, North Block, New Delhi.
2. The State of Rajasthan through the Chief Secretary, Government of Rajasthan, Secretariat, Jaipur.

.. Respondents

Mr. Ajay Rastogi, counsel for the applicant

Mr. Sanjay Pareek, counsel for respondent No.1

Mr. U.D.Sharma, counsel for respondent No.2

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. N.P.Nawani, Administrative Member

O R D E R

Per Hon'ble Mr. N.P.Nawani, Administrative Member

In this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant prays for quashing of the suspension order dated 10.9.1998 (Ann.A1) made by the Government of Rajasthan and also a direction to the respondents to reinstate the applicant in service from expiry of 90 days from the date of the order of suspension with all consequential benefits.

2. The brief facts of the case as stated are that the

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applicant is a member of the Indian Administrative Service (for short, IAS), 1981 batch of Rajasthan cadre; that he, while functioning as Special Secretary, Animal Husbandry Department, was allegedly caught red handed on 3.9.1998 while accepting a bribe of Rs. 15,000/-; that consequently a criminal case No.150/98 was registered by the Anti Corruption Bureau against him under Prevention of Corruption Act; that respondent No.2, the State Government, thereafter, acting in exercise of powers vested under Rule 3(3) of the All India Services (Discipline and Appeal) Rules, 1969 (for short, the Rules) placed the applicant under suspension vide the impugned order dated 10.9.1998 (Ann.A1) and that the said suspension order has not yet been revoked.

3. The case of the applicant essentially is that the scheme of Rules has undergone a change with the amendments made by virtue of Amendment Rules, 1998, notified on 13.7.1998. An obligation has now been placed on the State Government to review the cases of officers under suspension on the recommendation of the Review Committee within the period of 90 days to either extend the suspension after 90 days or, if at all, it is considered justified, for reasons to be recorded in writing, extend the same for 180 days unless revised earlier. The power under Rule 3(3) of the Rules is discretionary which is to be exercised by the competent authority in appropriate cases and not as a matter of course after its due application of mind but after insertion of sub-rule (8) in Rule 3 of the Rules, this power has been restricted and limited to 90 days which can be extended after due application of mind after receiving recommendation by the Review Committee. In this case, the 90 days period expired on 9.12.1998 and within this period the

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Review Committee failed to examine the case of the applicant and thus by <sup>the</sup> ~~efflux~~ of time itself the suspension order (Ann.A1) has become void and its continuation thereafter is without any authority of law. The position in law has been clarified by the Central Government to the State Government by sending two directives dated 23.6.1999 and 18.8.1999. By the former, the State Government was directed to revoke the order of suspension in terms of Rule 3(8) of the Rules, also clarifying that Rule 3(8)(a) is equally applicable to suspension under sub-rule (3) which is part of Rule 3 in toto. The latter informed the respondent No.2 that suspension of the applicant lapsed on the expiry of 90 days from the date of order of suspension. However, in spite of these, respondent No.2 has failed to comply with its legal obligation. The impugned suspension order (Ann.A1) should, therefore, be set aside and the applicant be reinstated with all consequential benefits.

4. Notices of the Original Application were given to the respondents, who have filed their replies.

5. The State of Rajasthan, respondent No.2, in their reply has opposed the reliefs sought by the applicant, starting with the submission that the application is not maintainable being premature since the statutory appeal filed by the applicant under Rule 16(i) of the Rules was still pending before the Central Government. It has been strongly urged by the respondent No.2 that the Rule 3(8) is applicable to an order of suspension which has not been extended, meaning thereby that it is <sup>not</sup> applicable to an order of suspension made under Rule 3(3) of the Rules, which is resorted to when an investigation, inquiry or trial relating to a criminal charge

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is pending and such suspension shall continue until the termination of all the proceedings relating to the charge and as such, no time limit of the continuation of the suspension has been fixed under this Rule. It was, therefore, contended that the question of extending the period of suspension made under Rule 3(3) does not arise and, consequently, the provisions of Rule 3(8) in their entirety are also not applicable. It has also been stated on behalf of respondent No.2 that communications referred to by the applicant dated 23.6.1999 and 18.8.1999 were confidential in nature; not made available to the applicant officially; are entirely between the two Governments and no right can be said to have been conferred on the applicant as has been held by Hon'ble the Supreme Court in Paramjit Singh case reported in AIR 1994 SC 2737 and the applicant cannot, therefore, make any prayer to the Tribunal pertaining to any of these two communications and these cannot be said to contain the decision of the Central Government on the statutory appeal filed by the applicant. The respondent No.2, therefore, submits that the question of the said suspension order having automatically been revoked on the expiry of 90 days does not arise and there is, in fact, no question of undertaking a review of the said suspension order under Rule 3(8). The suspension order remains operative till termination of all proceedings relating to criminal charge and the question of violation of principles of natural justice also does not arise. The application deserves to be dismissed being premature and devoid of any merit.

6. The applicant also filed a rejoinder to the reply given by the respondent No.2. It basically reiterates the case made out on behalf of the applicant and stresses that a suspension

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order made under Rule 3(3) is very much covered by sub-rule (8) of 3 of the Rules.

7. Respondent No.1, the Union of India, have also filed their reply. It is stated on their behalf that they had advised the State Government on 24.6.1999 (Ann.R-I/1) clarifying that as per the amendment carried out in Rule 3 of the Rules, review of suspension/deemed suspension is required to be undertaken under sub-rule (8) of the Rules within the stipulated time frame in cases of suspensions made under sub-rule (3) also. As review of suspension order was not done by the respondent No.2 within the time frame stipulated under sub-rule (8), they were requested to revoke the suspension of the applicant. It was also stated by the respondent No.1 that the applicant had filed an appeal against the suspension and the State Government was informed vide letter dated 24.6.1999 (Ann.R.I/1) that the order of suspension ended on expiry of 90 days from the date of suspension in the absence of review under sub-rule (8) within 90 days and that sub-rule (8) of Rule 3 was very much applicable to suspension under Rule 3(3) of the Rules.

8. We have heard the learned counsel for the parties and carefully perused the records. The counsel for the parties have agreed for disposal of this Original Application at the stage of admission itself.

9. The learned counsel for the applicant argued that sub-rule (8) is applicable on all types of suspensions including those made under Rule 3(3) of the Rules. Accordingly, as per the scheme laid down in sub-rule (8) of Rule 3 of the Rules, the review of the order of suspension of the applicant having

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not been done within the stipulated period of 90 days, the said order of suspension automatically expired on 9.12.1998 and the applicant should be reinstated with effect from 9.12.1998 with all the consequential benefits. He added that this contention was fully endorsed by the letter dated 23.6.1999 addressed by the Government of India in the Ministry of Personnel (Department of Personnel and Training), a copy of which has also now been filed by respondent No.1 i.e. Union of India with their reply. The counsel for the applicant stressed that in the face of the reply filed by the rule maker, the Central Government, and their communication to the State Government dated 23.6.1999, there is no scope available to the respondent No.2, the State Government, to interpret the scheme of Rule 3 of the Rules in any other manner and, therefore, the stand taken by respondent No.2 that sub-rule (8) is applicable to only suspension orders made under Rule 3(1) and is not applicable to those under Rule 3(3), has no force at all. Rule 3 of the Rules, as amended by the notification dated 13.7.1998 must be read as a whole and such a reading will reveal that a complete scheme of monitoring of suspension orders has been laid out including a statutory Review Committee. The objective behind this statutory scheme is to control the practice of 'once suspended, suspended for ever'. The scheme will ensure that where the period of suspension is extended beyond 90 days and 180 days as applicable, it is done by due application of mind, first by a high powered Review Committee and then by the competent authority. The use of word "this rule" in sub-Rule (8)(a) is indicative of the fact that the rule makers intended that this sub-Rule was inserted to cover all the orders of suspensions made under the Rule 3 of the Rules. In any case, even if there was any doubt about these provisions,

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under Rule 31 of the rules, it is the Central Government (respondent No.1) to whom a reference is to be made and by virtue of their reply and the letter dated 24.6.1999, the Central Government has left no scope for any doubt at all.

The learned counsel for the applicant sought support from two cases. In the first one, 1998 (2) WLC 53 Naresh Kumar Rajput & Ors. Vs. State of Rajasthan and Ors., Hon'ble the High Court of Rajasthan held that "a notification has to be read literally and liberally so as to extend the benefit to more and more persons and cardinal rule of construction of statute should be applied by giving the words their natural and plain meaning". In the second case, 1998 (4) SCC 543 Shreenath and Anr. Vs. V.Rajesh and Ors., the Apex Court held that "In interpreting any procedural law, where more than one interpretation is possible, the one which curtails the procedure without eluding justice is to be adopted..... Any interpretation which eludes and frustrates the recipient of justice is not to be followed." We are of the view that the case law cited above would certainly help the cause of the applicant if we find ourselves required to interpret the scheme of things in Rule 3 of the Rules.

10. The learned counsel for respondent No.2, the State of Rajasthan, reiterated what had been stated in their reply. He opened his arguments by requesting us not to pre-judge the issue in view of the contents of the reply filed by the respondent No.1 i.e. the Union of India. He argued that Rule 3(3) provides for continuous suspension in view of the phrase "until the termination of proceedings relating to that charge" incorporated in the said rule. There is, therefore, no question of further extension(s). In support of his contention he cited 1976 SLJ 485, D.D.Suri Vs. A.K.Barven and

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Ors., in which Hon'ble the Supreme Court has held that "Investigation becomes pending when the FIR is filed.... The rule provides that suspension order may last until the termination of all proceedings relating to the charges". This ruling does not help the cause of respondent No.2 very much as it was pre-July 1998 amendment and the insertion of sub-rule (8) in Rule 3 has now changed the position. Similarly the other case cited AIR 1974 1281, H.N.Mehta Vs. Union of India is also of not much help to the respondent No.2. The learned counsel for respondent No.2, however, asserted that Rule 3(8)(a) excludes suspensions under Rule 3(3) because any order of suspension under Rule 3(3) is not extendable at all. Further, (d) of sub-rule (8) does not make a mention of Rule 3(3). Lastly, use of the phrase "subject to sub-rule (8)" in the amended sub-rule 7(b) indicates that sub-rule (8) has a nexus only with sub-rule 7(b) and not with the entire Rule 3 of the Rules. The learned counsel for respondent No.2, therefore, argued that amendments brought about by the Notification dated 13.7.1998 deal only with suspensions made under Rule 3(1) and those made under Rule 3(3) are not subject to review. He added that it is also to be noted that the functions assigned to the Review Committee in the Schedule in its sub-para (a) mentions "while assessing the justification for further continuation of suspension" and this can thus be relatable only to a suspension under Rule 3(1). He also contended that the period of suspension is prescribed under law in Rule 3(3) and cannot be curtailed by the amendments introduced vide Notification dated 13.7.1998. He also drew our attention to the circular dated 18.8.1999 issued by the Department of Personnel and Training in the Ministry of Personnel, Public Grievances and Pensions, which refers to the insertion of a new sub-clause 8 for monitoring

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and reviewing of the cases of suspension by the State Government etc. and pointed to the fact that in its para 2, the said circular mentions Rule 3(1) but not Rule 3(3) of the Rules which also indicates that sub-rule (8) of the Rules is not applicable to suspension made under Rule 3(3) of the Rules.

11. The learned counsel for respondent No.1, Union of India, reiterated the assertion made in their written reply and the letter dated 24.6.1999 annexed thereto (Ann.R-I/1). He argued that the rule making authority i.e. the Central Government has, in very clear terms, stated what is the impact of the amendments carried out vide the Notification dated 13.7.1998 and has specifically stated that "The State Government was informed vide letter dated 24.6.1999 that the order of suspension ended on the expiry of 90 days from the date of suspension in the absence of review under sub-rule (8) within 90 days. Sub-rule (8) of Rule 3 is very much applicable to suspension under sub-Rule 3(3)". He concluded by saying that as indicated in their reply "the relief sought for in para 8 and 9 may be disposed in view of the aforesaid facts".

12. We have given our utmost and careful consideration to the pleadings/arguments put forward by <sup>all</sup> ~~all~~ the <sup>three</sup> ~~three~~ parties in this case. In the instant case, the rule making authority is the Central Government (respondent No.1) and in the face of their crystal clear and categorical reply, as discussed in the preceding paragraph, we are left in no doubt as to what was the intention of the rule making authority in bringing about the amendments in Rule 3 of the Rules through the Notification issued on 13.7.1998. Notwithstanding the arguments forcefully put forward by the learned counsel on

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behalf of the State of Rajasthan (respondent No.2) to the effect that the newly inserted sub-rule (8) is not applicable to the cases of suspensions ordered under the provisions of Rule 3(3) of the Rules, we cannot ignore the explicit statement of the respondent No.1 that "the order of suspension ended (emphasis added) on the expiry of 90 days from the date of suspension in the absence of review under sub-rule (8) within 90 days. Sub-rule (8) of Rule 3 is very much (emphasis added) applicable to suspension under sub-rule 3(3)". Any attempt on our part to say that intention of the statutory Rule 3 of the Rules, after amendments carried out on 13.7.1998, is something different than what the rule making authority i.e. the Central Government has stated in absolutely clear terms in their reply will be fraught with the danger of being seen as going much beyond "ironing out creases to remove ambiguity". In this connection, it will be useful to extract following portions from the judgment of Hon'ble the Supreme Court in I.A.S.(S.C.S.) Association Vs. Union of India & Ors., 1993(1) SLR 69:

"7.....It is the settled cannons of construction that every word, phrase or sentence in the statute and all the provisions read together shall be given full force and effect and no provision shall be rendered surplusage or nugatory. It is equally settled law that the mere fact that the result of a statute may be unjust, does not entitle the court to refuse to give effect to it. However, if two reasonable interpretations are possible, the court would adopt that construction which is just, reasonable or sensible. Courts cannot substitute the words or phrases or supply casus omissus. The court could in an appropriate case iron out the creases to remove ambiguity to give full force and effect to the legislative intention. But the intention must be gathered by putting up fair construction of all the

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provisions reading together. This endeavour would be to avoid absurdity or unintended unjust results by applying the doctrine of purposive construction."

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"9. Thus, it is settled law that where the intention of statutory amendment is clear and expressive, words cannot be interpolated. In the first place they are not, in the case, needed. If they should be added, the statute would more than likely fail to carry out the legislative intent. The words are the skin of the language which the legislature intended to convey. Where the meaning of the statute is clear and sensible, either with or without omitting the words or adding one, interpolation is improper, since the primary purpose of the legislative intent is what the statute says to be so. If the language is plain, clear and explicit it must be given effect and the question of interpretation does not arise. If found ambiguous or unintended, the court can at best iron out the creases. Any wrong order or defective legislation cannot be righted merely because it is wrong."

In a similar vein, the Apex Court in Syed Rizvi Vs. Union Of India, 1994 SCC (L&S) 84, has observed as under:

"The scheme of Rules and Regulations is an integral and continuous whole and any snap in the link would lead to distortion and land up in imbalance in the ratio and upset the smooth working of the scheme...."

In the facts and circumstances of this case and against the background of guidelines given by the Apex Court as above, we feel no need to attempt any interpretation of Rule 3 of the Rules. In Addition to the crystal clear statements made by the rule making authority, the respondent No.1, in their reply, we also observe that the word "Rule", rather than "any sub-rule" has been used in the newly inserted sub-rule (8) by the rule making authority. The intention,

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therefore, appears to be clear that sub-rule (8) should cover all the suspensions made under the Rule 3 of the Rules.

13. We find it a little strange that respondent No.2, the State Government, did not get their doubts sorted out with respect to the implications of the amendments carried out in Rule 3 of the Rules vide Notification dated 13.7.1998 within 90 days of the issuance of the suspension order against the applicant and in any case immediately after receiving the letter dated 24.6.1999 from respondent No.1, the Central Government. They got another opportunity for sorting out the matter with the Central Government after this Tribunal's interim order dated 9.9.1999 directing them to consider revocation of the order of suspension of the applicant and his reinstatement in service.

14. In view of above, we came to the conclusion that the suspension of the applicant beyond 90 days of the issuance of the order of suspension i.e. beyond 9.12.1998 is not maintainable and the Original Application deserves to be allowed.

15. We will, however, be failing in our pious duty if we do not put down, at this stage the nagging thought that remained in our minds while disposing of this Original Application. We are constrained to make this observation against the background of need to wage an effective and sustained battle against corruption, the virus of which has been permeating into the sinews of the entire body politic of the country. Rule 3 of the Rules, as it stands amended on 13.7.1998 has, however, placed all the cases of suspension in respect of officers of the premier All India Services on the same footing as far as the stipulated limits laid, the monitoring system and the revocation/expiration of suspension orders is

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concerned. It has to be appreciated that the range of disciplinary proceedings with which the suspensions under Rule 3(1) are concerned, cover a wide spectrum, which by way of illustration, may start from such minor misdemeanour like being late for office frequently to more serious charges like accepting illegal gratification as motive reward for doing or forbearing to do any official act. On the other hand, officers placed under suspension under Rule 3(3) are those against whom an investigation, inquiry or trial relating to a criminal charge is pending. These cases are obviously of a much more serious nature as a class and include cases registered under the Prevention of Corruption Act, 1988 which law is the main bullwork of fight against corruption. It is also noteworthy that this Rule 3(3) had earlier not provided for any periodicity after which the suspension order will expire. The insertion of sub-rule (8) brought about by the amendments of 13.7.1998, has placed the two set of officers on the same pedestal and we will urge upon the Secretary, Department of Personnel and Training in the Ministry of Personnel, Public Grievances and Pensions to consider whether the Central Government would like to carry out a further examination of the Rule 3 of the Rules in view of the overriding objective of intensifying the efforts to eradicate the disease of corruption that seems to be afflicting the society at large, including the highest echelons of the administrative services in the country. If any review of the Rule 3 is carried out, it will be worthwhile to also examine the contentions put forward by the learned counsel for respondent No.2 in this case.

16. Reverting back to the case and continuing from para 12 to 14, we hold that the Original Application succeeds; that the impugned order dated 10.09.1998 (Ann.A1) placing the

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the impugned order dated 10.09.1998 (Ann.A1) placing the applicant under suspension stands expired on 8.12.1998 and respondent No.2 is directed to reinstate the applicant on any equivalent post that is considered appropriate by the State government with effect from 9.12.1998 with all the entitled consequential benefits. The above direction may be carried out within fifteen days of the receipt of a copy of this order.

17. No order as to costs.

  
(N.P. NAWANI)

Adm. Member

  
(GOPAL KRISHNA)

Vice Chairman