

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A No. 060/00715/2014

Date of decision-25.11.2014

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)

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Kishore Kumar Srivastava S/o Late Sh. Hrishikesh Prasad Srivastava, aged 52 years, Area Manager, Central Stores Depot, Ambala and Resident of House No. 1/1, CSD Residential Complex, Allenby Lines, Ambala Cantt., Haryana.

...APPLICANT

BY ADVOCATE : Sh. Rohit Seth

VERSUS

1. Union of India through the Secretary to Government of India, Ministry of Defence, New Delhi.
2. Under Secretary to Govt. of India, Ministry of Defence, D(MoV) Sena Bhawan, New Delhi.
3. Chairman and General Manger, Canteen Stores Department, Adelphi Building, 199, M.K. Road, Mumbai-400020.

...RESPONDENTS

BY ADVOCATE: Sh. Deepak Agnihotri, Advocate alongwith Sh. Lakhinder Singh, Off. Joint General Manager-IT

ORDER

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

Challenge in the O.A is to the order dated 06.08.2014 served upon the applicant vide letter dated 20.08.2014 vide which the he was placed under suspension under Rule 10(1) (b) of Central Civil

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Services (Classification, Control and Appeal) Rules, 1965 (in short '1965 Rules') with immediate effect.

2. The facts which led to filing of the present case are that the applicant, after being selected by the UPSC through a competitive examination, was appointed as Manager Grade I w.e.f. 25.01.1993. During the course of service he was promoted as Assistant General Manager w.e.f. 01.01.2003 vide order dated 31.12.2002. It is the case of the applicant that during his service career before the present impugned order, he earned 'very good' and 'outstanding' service record and he was also posted on sensitive posts where his work was always appreciated by the higher authorities. On 13.04.2012 the applicant was transferred from Mumbai to Ambala to took charge of the post of AGM. While the applicant was working at Mumbai office a raid was carried out by the CBI at the office and residence of certain officers including the applicant on 30.06.2012. Nothing incriminating was found in the custody/possession of the applicant in that search whereas the other officers than the applicant were arrested from where some material was found by the CBI and against them a FIR was also registered. There was nothing against the applicant in that search. A statement was recorded by the CBI (ACB) Kolaba under Section 161 Cr. P.C as a witness only. Till 03.12.2012 neither the applicant was informed by the respondent-department nor he received

any communication from CBI or from the Court that an FIR was registered against him. The applicant was due for grant of 2nd financial up gradation under MACP Scheme w.e.f. 1.1.2013 and when the same was not granted, the applicant represented respondent-department for the same. A screening committee meeting was held on 17.01.2013 for grant of the relevant benefit where case of the applicant was placed along with vigilance clearance given by the concerned authority. However, without there being a prior notice the said vigilance clearance was withdrawn against which the applicant protested. Pending above decision, the applicant was placed under suspension by order dated 15.03.2013 under Rule 10 (I) (b) of 1965 Rules on registration of an FIR dated 03.12.2013 by the CBI.

3. The applicant is stated to have immediately represented the respondent-department against his suspension and requested them to provide the necessary documents for coming to the conclusion of placing him under suspension. A representation was also filed on 16.03.2013. The said order was the subject matter of an OA before this Court in OA-383-HR-2013 where in as an interim measure, a coordinate Bench of this Tribunal, vide its order dated 18.03.2013, stayed the impugned suspension order dated 15.03.2013. Ultimately, the O.A was disposed of vide order dated 27.05.2014 with a direction to the respondents to consider and decide the pending representation

of the applicant within a period of one month from the date of receipt of a certified copy of that order. A copy of the said order was stated to have been served upon the respondents vide letter dated 09.06.2014. It is in this background the respondents, by the impugned order dated 06.08.2014, have rejected the representation of the applicant against the impugned order of suspension dated 15.03.2014, which was supplied vide letter dated 20.08.2014 and the applicant was informed that his representation stands rejected and he was placed under suspension with immediate effect with direction to hand over charge to one Shri Vinodji Raina, Assistant Manager, CSD Depot, Ambala. It is these orders which are impugned in the present Original Application.

4. Pursuant to notice, the respondents contested the claim of the applicant by filing detailed written statement wherein, they have submitted that by an order dated 15.03.2013, the applicant was placed under suspension in terms of Rule 10 (I) (b) of the 1965 Rules pending criminal proceedings, as an FIR was registered against him on 03.12.2012. It is submitted that the applicant has got favour from one of the firms, who was supplying material and thus on an inquiry by the CBI, it transpired that the favour was in lieu of the order to be placed to those firms. Considering his conduct coupled with the fact that the CBI had registered an FIR and had also requested the

department to initiate departmental proceedings the applicant was placed under suspension. It is submitted that two more officers, who were arrested by the CBI, were on deputation with the respondent department, have already been repatriated to their parent department and one officer of the respondent department has approached the Guwahati Bench of this Tribunal against the order of suspension where in his suspension has been stayed. It is also submitted that the plea of applicant qua discrimination vis-à-vis other employees, who were also involved in similar case, was also considered in terms of the order of this Court and the competent authority, by the impugned speaking order, has rejected that plea and, thus, the order is perfectly legal and valid.

5. The applicant has also filed a replication wherein he has contradicted the averments made in the written statement filed by the respondents and has submitted that there is no investigation pending against the applicant as the CBI asked for prosecution sanction which had already been granted and, therefore, in terms of Rule 10 (1)(b) of 1965 Rules the applicant cannot be placed under suspension, as there is no investigation/inquiry or trial pending in respect of the criminal charge lodged against the applicant. It is also submitted that against more than 50 officers of the respondent-department the CBI has also slapped similar charges and in fact in their cases the charges are of

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much more serious in nature as they have reimbursed the amount of the fake bills submitted by them whereas in the case of the applicant the CBI has not pointed out that the applicant has embezzled any amount which may have resulted into any loss to the Government Exchequer. The only allegation is of favouring a firm to whom an order had been placed. Thus, it is submitted that the applicant has been discriminated vis-à-vis those employees by placing him under suspension whereas others are continuing to performing their duties.

6. We have heard Sh. Rohit Seth, learned counsel for the applicant and Sh. Deepak Agnihotri Senior standing counsel for the respondents and Lakhinder Singh, Off. Joint General Manager-IT.

7. Sh. Rohit Seth, learned counsel for the applicant vehemently argued that the impugned order labeled as "speaking order" is nothing but a reiteration of the earlier order dated 15.03.2013 and as such the same is liable to be set aside. He submitted that while disposing of the earlier O.A, this Court had directed the respondents to decide the appeal of the applicant by passing a reasoned and speaking order. In his appeal the applicant had taken certain grounds which have not even been considered by the authority while rejecting his case by the impugned order and as such order is not sustainable in the eyes of law. He submitted that the respondents without discussing the points raised by the applicant have

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passed the order rejecting his claim for reinstatement in service only on the ground that an FIR had been registered against him. Therefore, he submitted that the impugned order is also liable to be set aside having not been passed in public interest. To elaborate his argument he submitted that there is not even a whisper in the written statement or in the speaking order that this fact had been kept in mind by the authority, who has passed the impugned order, while rejecting his request for reinstatement. He then submitted that the impugned order also suffers from arbitrariness and the discrimination vis-à-vis other employees. He submitted that at the first instance the applicant was not arrested and two other officers were arrested against whom FIR was registered and his statement was recorded under Section 160 of Cr. PC as a witness and not as an accused. Subsequent to that, it is only on 3.12.2012, as submitted by the respondents, that an FIR was registered against the applicant, though he was not served with the copy of the FIR, which is one of the grounds taken in the review based upon which the applicant was placed under suspension. There are more than 50 officers who are similarly placed like applicant, against whom investigation was also carried out, rather their act is of serious nature than the one alleged against the applicant. They were not subjected to suspension, whereas the applicant was placed under suspension without application

of mind. In their cases, the individuals have reimbursed the amount of the loss caused to the Government whereas the applicant has been placed under suspension without such a serious charge, which the respondents cannot do because an FIR does not give them a right to place a person automatically under suspension without independent application of mind. He further submitted that there is no investigation pending against the applicant as the CBI had asked for and was granted prosecution sanction. Therefore, there is no investigation pending against him and in terms of Rule 10(i) (b) of 1965 Rules, therefore, he cannot be placed under suspension merely on registration of an FIR for which no investigation has been pending and charges have not been framed against the applicant by the competent court of law. On the ground of discrimination, to buttress his submission, learned counsel placed reliance upon a judgment of the Hon'ble Supreme Court in the case of **K. Sukhendar Reddy v. State of A.P.**, 2000 (2) SCT 16. Shri Seth also submitted that the impugned order suffers from a legal infirmity because the same has not been passed within a period of 90 days of initial date of suspension. He submitted that the impugned order was passed on 06.08.2014 and till date no review has been carried out. Thus, the order is liable to be set aside on this ground as well. For this he placed reliance on a decision of the Hon'ble Supreme Court in case of **Union of India Vs. Dipak**

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Mali 2010(1) SCT 498 and order dated 18.1.2005 passed by Principal Bench of C.A.T in O.A No. 3011/2004 titled **Dharam Pal Vs. U.O.I.** Reliance is also placed upon interim order dated 25.3.2013 in O.A.No.71/2013 - **Sri Venkatesh Seshagiri Rao Vs. UOI etc.** passed by C.A.T. Guwahati Bench wherein suspension was stayed.

8. Per contra, Sh. Deepak Agnihotri, learned counsel for the respondents reiterated, what has been stated in the written statement. That apart, he submitted, on the basis of instruction from Shri Lakhinder Singh, Off. Joint General Manager-IT, that till date review has not been carried out by respondents. Though, he has supported the impugned order on the ground that an FIR had been registered against the applicant and, therefore, the authority rightly decided to place the applicant under suspension pending investigation.

9. We have given our thoughtful consideration to the entire matter and perused the pleadings available on record.

10. Before adjudicating the questions raised in the present original application, we would like to state here that the suspension is defined as a state of being debarred. An employee, when he is suspended, is thus debarred from any privilege, particularly from the execution of an office. It is temporary deprivation of office. However the suspended employee does not lose his office nor does he suffers any degradation. He only ceases to exercise powers and discharge duties for the time being. Order of suspension does not pertain to his

service under his employer and he continues to be an employee/member of service inspite of order of suspension. In **Khem Chand Vs. Union of India**, AIR 1963 SC 687, the Hon'ble Supreme Court explained the real effect of order of suspension and clarified that government servant, when suspended, continues to be a government employee but he is not permitted to work and further during the period of suspension he is paid only some allowances - generally called subsistence allowance - which is normally less than salary instead of pay and allowances he would have been entitled to if he had not been suspended. What subsistence allowance is to be paid depends on the service rules on the subject. Further in the case of **P.L. SHAH VS. UNION OF INDIA**, 1989 AIR 985, the Lordships of the Hon'ble Supreme Court have observed that the order of suspension is not an order imposing punishment on a person. It is an order made against him before he is found guilty to ensure smooth disposal of proceedings initiated against him. Such proceedings should be completed expeditiously in public interest and also in the interest of government service concerned. There is no doubt that order of suspension, unless the departmental enquiry is concluded within a reasonable time, may act against a government servant. The subsistence allowance is paid by the Government so that the Government servant against whom an order of suspension is passed on account of the pendency of any

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disciplinary proceeding or a criminal case instituted against him could maintain himself and his dependants until the departmental proceeding or the criminal case as the case may be comes to an end and appropriate orders are passed against the Government servant by the Government regarding his right to continue in service etc. depending upon the final outcome of the proceedings instituted against him.

11. We are called upon to adjudge the validity of the impugned order of suspension on four counts. Firstly that the same suffers from an inherent defect of not being reviewed within a period of 90 days; Secondly whether mere registration of an FIR gives a right to the department to place an employee under suspension; Thirdly whether the impugned speaking order fulfills the mandate of the court of law that the suspension order is not to be passed lightly and the competent authority has to keep in mind public interest while placing an employee under suspension and lastly whether the impugned order is arbitrary and applicant has been discriminated vis-à-vis similarly situated persons.

12. The first contention of the applicant that the respondents have not carried out the review of suspension order within 90 days in terms of Rule 10 of the 1965 Rules deserves to be rejected for the simple reason that though the applicant was placed under suspension

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by an order dated 15.03.2013, which was the subject matter in an O.A. before this Court and a coordinate Bench of this Tribunal disposed of the OA with a direction to the respondents to consider his representation by passing a speaking order and such order has since been passed the legality of which is under challenge in these proceedings. During the period from 18.03.2013 till the respondents passed the speaking order, the applicant was under protection of the court and the order of suspension was kept in abeyance. On 06.08.2014 his representation was rejected and by another order dated 20.08.2014 the applicant was placed under suspension with immediate effect and was ordered to hand over the charge of the post. Therefore by order dated 20.08.2014, the applicant was placed under suspension and, therefore, the 90 days' are still with the respondents to review his order of suspension and as such the plea taken by the applicant deserves to be rejected. Hence, this plea is rejected summarily.

13. Now dealing with the second question whether an employee can be placed under suspension merely on registration of an FIR and without considering the public interest as has been done in this case, as sought to be projected by learned counsel for the applicant. Concededly the applicant was never arrested by the CBI, his statement was recorded as a witness against two officers against

whom an FIR was registered. He was never served with a copy of the FIR, which is a positive averment in the OA and he was placed under suspension by an order dated 15.03.2013 on registration of an FIR. To consider his submission, Rule 10 of the Rules, which deals with suspension is reproduced here for better appreciation of the issue :-

"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) xxx xxx xxx

(aa) xxxxxx xxx

(b) Where a case against him in respect of any criminal offence is under investigation, inquiry or trial."

14. A mere perusal of the aforesaid rule gives a power to the authority to place an employee under suspension where a case against him in respect of a criminal charge is under investigation, inquiry or trial. In the case in hand, concededly, an FIR/RC had been registered against the applicant and no charges had yet been framed by the criminal court. Therefore, neither an investigation nor an inquiry was pending against the applicant and the trial has also not yet begun as charges have not been framed against him. The relevant part of the order/instructions dated 2.11.2012 issued by the Government of India,

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Ministry of Personnel, Public Grievances & Pensions, DoPT, New Delhi
in this regard being relevant is reproduced as under :-

"8. As regards the stage when prosecution for a criminal charge can be stated to be pending, the said O.M. dated 14.9.92 does not specify the same and hence the definition of pendency of judicial proceedings in criminal cases given in Rule 9 (6)(b)(i) of CCS (Pension) Rules, 1972 is adopted for the purpose. The Rule 9 (6)(b)(i) of CCS (Pension) Rules, 1972 provides as under :-

"(b) judicial proceedings shall be deemed to be instituted -

(i) in the case of criminal proceedings, on the date on which the complaint or report of a Police Officer, of which the Magistrate takes cognizance, is made".

The extracted instructions clearly provides that in terms of Rule 9(6)(5)(i) of CCS (Pension) Rules, 1972, the judicial proceedings shall deemed to have be initiated when the magistrate takes cognizance of the judicial proceedings.

15. As per the settled law, the trial commences from the framing of charges against an accused. Therefore, the impugned order cannot be sustained in the eye of law. Reference in this made to judgments of the Hon'ble Supreme Court in the cases of **Ratilal Bhanji Mithani vs, State of Maharashtra & Ors., AIR 1979 SC 94 , V.C. Shukla v. State through C.B.I., AIR 1980 SC 962, Union of India & Ors., AIR 1997 SC 1539,** where in the :ordships of the Hon'ble Supreme court has held

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that "the trial start from the date when the Magistrate take cognizance and when charges are framed under Section 228 of the Code of Criminal Procedure, 1973 in the concerned cases."

16. In this case, as can be gathered from the impugned order, the applicant has been placed under suspension and order has not been reviewed solely for the reason that FIR/RC was pending against the applicant.

17. Now, we deal with the third question of passing of an order without application of mind. Perusal of the impugned order dated 06.08.2014 does not indicate the reasons, much less the public interest while deciding to continue the applicant under suspension and rejecting his claim for revocation of the suspension order. The order indicates that his suspension was not revoked for the simple reason that an FIR had been registered against him and he was also recommended for a suitable departmental action. As noticed above, the suspension order cannot be passed lightly, as it affects the career of an employee and further prospects in service. Though suspension is not one of the scheduled punishment under the service rules but it casts a stigma on an employee before holding him guilty by a procedure established under the law. It has a disastrous impact on the fair name and good reputation that may have been earned and

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built up by a government servant in the course of many years of his service. The damage suffered by the Government servant is largely irreversible because the denigration and disgrace visited on him by the order of suspension is seldom wiped out by his being reinstatement in service. It is also held by the Hon'ble Supreme Court in the case of **Vice-Chancellor, Jammu University vs. D.K. Rampal**, (1977) 2 SCC 616 that by placing an employee under suspension, without proper application of mind, Government is loser because it has to pay heavy amount by way of subsistence allowance and other payment without taking any service from an employee. It may be considered whether public purpose would be served if the officer can be transferred from his post or he be asked to proceed on some kind of leave. Guiding factors shall always be the public interest for adoption of such a course of action.

18. The duty of the Court is restricted only to the limited extent of ensuring that the appointing/disciplinary authority has taken into consideration the nature of the charge, its complexity, public interest involved in retaining the government servant/employee, against whom, serious imputation are levelled and whether retention of such a person, would be scandalous to the department or sub-serve the discipline in the department or affect the morale of other government servants/employees or to facilitate a fair enquiry. Our

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view finds support from the decision in the case of **Ramana Dayaram Shetty vs. International Air Port Authority** reported as 1979 (II) LLJ 217. The following observation of Their Lordships being conclusive is worth noticing :-

"11.....It is a well-settled rule of administrative law that an executive authority must be rigorously held to the standards by which it professes its actions to be judged and it must scrupulously observe those standards on pain of invalidation of an act in violation of them.....Every action of the executive Government must be informed with reason and should be free from arbitrariness. That is the very essence of the rule of law and its bare minimal requirement. And to the application of this principle it makes no difference whether the exercise of the power involves affectation of some right or denial of some privilege."

19. In this context, it is pertinent to extract the observations of Lord Denning, as found in Wade on Administrative Law, "The discretion of a statutory body is never unfettered. It is a discretion which is to be exercised according to law. That means at least this: the statutory body must be guided by relevant consideration and not by irrelevant. If its decision is influenced by extraneous considerations which it ought not to have taken into account, then the decision cannot stand. No matter that the statutory body may have acted in good faith, nevertheless the decision will be set aside. **The object of**

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suspension is to enable the administration to conduct the proceedings smoothly with all fairness to the parties without the interference by the government servant against whom the proceedings are conducted. Suspension is only when government come to the conclusion that it is not in public interest to keep employee to continue in office as there are no other methods are either not available or impracticable, meaning thereby the complete application of mind before passing order of suspension as "order of suspension affects a Government servant injuriously" as held in case of **Khem Chand (Supra)**.

20. While passing order of suspension the authority concerned also keeps in mind the public interest while placing an employee under suspension. In absence of public interest the order of suspension can be set aside being based on other extraneous considerations. Because order can not be passed lightly as it effect the right of an indusial and cast stigma without an inquiry. Reliance is placed on **M.PAUL ANTHONY VS. BHART GOLD MINES LTD.**, (1993) 3 SCC 679 wherein Their Lordships have held: (para 29)

"29. Exercise of right to suspend an employee may be justified on the facts of a particular case. Instances, however, are not rare where officers have been found to be afflicted by a "suspension syndrome" and the employees have been found to be placed under suspension just for nothing. It is their irritability rather than the employee's trivial lapse which has often resulted

in suspension. Suspension notwithstanding, non-payment of subsistence allowance is an inhuman act which has an unpropitious effect on the life of an employee..."

This was also held by the Hon'ble Supreme Court subsequently in the case of **STATE OF ORISSA V. BIMAL KUMAR MOHANTY,**


(1994) 4 SCC 126:

"13. It is thus settled law that normally when an appointing authority or the disciplinary authority seeks to suspend an employee, pending inquiry or contemplated inquiry or pending investigation into grave charges of misconduct or defalcation of funds or serious acts of omission and 5 1993 Supp (3) SCC 483: 1994 SCC (L&S) 67: (1993) 25 ATC commission, the order of suspension would be passed after taking into consideration the gravity of the misconduct sought to be inquired into or investigated and the nature of the evidence placed before the appointing authority and on application of the mind by disciplinary authority. Appointing authority or disciplinary authority should consider the above aspects and decide whether it is expedient to keep an employee under suspension pending aforesaid action. It would not be as an administrative routine or an automatic order to suspend an employee. It should be on consideration of the gravity of the alleged misconduct or the nature of the allegations imputed to the delinquent employee. The Court or the Tribunal must consider each case on its own facts and no general law could be laid down in that behalf. 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

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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."

21. What we can gather here from the impugned order is that applicant was placed under suspension and his suspension was not reviewed for revocation as an FIR was pending against him and no reason, whatsoever, has been given for considering whether his continuation in service would hamper the official working or in any way prejudice the proceedings before the court of law. There is another reason which compels us to record finding of non-application of mind by the respondents because there is no departmental proceedings pending against the applicant as yet, as neither any document has been placed on record nor has suggestion been made at the time of argument that the departmental proceedings have been launched against the applicant by issuance of a charge-sheet. Almost a year has passed and the department has not yet chosen to initiate the departmental proceedings against him. Thus, the order suffers from lack of reasons and can safely be termed as non-speaking order. Even a similar aspect of registration of FIR and not yet commencement of a criminal case has been considered by the Hon'ble Supreme Court in **K. Sukhendar Reddy** (supra) where their Lordships have considered



that an IAS officer was placed under suspension on mere registration of an FIR but in a criminal case the charges have not been framed against them. Then the Court came to the conclusion that the suspension cannot be held to be valid as the charges had not yet been framed by the court of law, therefore suspension order was quashed with liberty to the department to reconsider his case when the charges were framed against him for placing him under suspension if need arises.

22. Now dealing with last question of discrimination vis-à-vis other employees, it is admitted by the respondents that it is not that the applicant has got any benefit from the supplier/firm whereas there are other officers of the respondent-department who also got the similar benefits, which is not denied by the respondents in their written statement, they have rather reimbursed those bills and to them only show cause notices have now been issued. There is no denial by the respondents in the written statement to the averment made by the applicant that he has not even got reimbursement of any bill by causing financial loss to the Government. Though as per the settled law the negative equality cannot be claimed, but to have the complete justice, we have to ensure that the action of the respondents is not arbitrary or discriminatory. Here the others are continuing in service and enjoying the status despite their names being included in the

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investigation report but merely the applicant was named in the FIR he was placed under suspension which no doubt is quite harsh. Therefore, mere registration of an FIR against the applicant, will not allow others who have committed the same alleged offence, to enjoy continuity of service while placing the applicant under suspension. The answer to question also lies in the case of **K. Sukhendar Reddy** (supra) where one IAS officer was placed under suspension and others were not touched. The Court in the circumstances has held as under:

"7. Another vital fact which has come on record is that in the criminal case a number of senior I.A.S. officers, even senior to the appellant, may be found involved, but nothing positive or definite can be said as yet as the investigation is likely to take time. The matter is pending with the Police since 1.12.1996 when the F.I.R. was lodged at Anakapalli Town Police Station. The investigation has not been completed although about two and half year has passed. We do not know how long will it take to complete the investigation. That being so, the officer of the rank of the appellant, against whom it has now come out that the disciplinary proceedings are not contemplated, cannot be kept under suspension for an indefinite period, particularly in a situation where many more senior officers may ultimately be found involved, but the appellant alone has been placed under suspension. The Govt. cannot be permitted to place an officer under suspension just to exhibit and feign that action against the officers, irrespective of their high status in the Service hierarchy, would be taken. "

23. In the above back drop of the aforesaid discussion, we are of the view that the impugned order dated 6.8.2014 cannot sustain in its present form as it does not show application of mind and, therefore, the same is quashed and set aside. The matter is remitted

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back to the respondents to give a fresh look in the light of what we have observed herein-above and pass a reasoned speaking order in accordance with rules and law.

24. The OA stands allowed in the aforesaid terms. No costs.

Sanjeev Kaushik
(SANJEEV KAUSHIK)
MEMBER (J)

Uday Kumar Varma
(UDAY KUMAR VARMA)
MEMBER (A)

Place: Chandigarh
Dated: 25.11.2014

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