

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**R.A No. 31/2016
In
O.A No. 3209/2015
M.A No. 424/2016**

New Delhi this the 4th day of March, 2016

Hon'ble Mr. Justice M. S. Sullar, Member (J)
Hon'ble Mr. K. N. Shrivastava, Member (A)

1. Union of India, through
The Secretary,
DoT, Ministry of Communication & IT,
20, Ashoka Road, Sanchar Bhawan, New Delhi.
2. Director, Vigilance
Ministry of Communication & IT,
20, Ashoka Road, Sanchar Bhawan,
New Delhi.

....Review Applicants

(By Advocate: Shri Subhash Gosain)

VERSUS

Sh. Chandrahas
Aged 59 years,
S/o Sh. Mahipal Singh
R/o Qtr. No.1, Type V,
BSNL Colony, Sector 8, Karnal, Haryana

....Respondent

(By Advocate : Mrs. Jasvinder Kaur)

O R D E R (O R A L)

Hon'ble Mr. Justice M. S. Sullar, Member (J):

The contour of the facts and material exposited from the record, which needs necessary mention for a limited purpose of deciding the present Review Petition, is that initially Chandrahas, respondent herein (applicant in the main O.A) preferred main O.A No. 3209/2015 to quash the impugned order of suspension dated 27.08.2014 and subsequent order dated 23.03.2015 whereby his suspension period was extended till 23.09.2015 by the competent authority.

2. Having completed all the codal formalities, the main O.A came to be allowed vide order dated 08.12.2015 by this Bench which in substance is as under :-

“19. The respondents, in their counter reply dated 30.10.2015, have pleaded that the meeting of the Review Committee was held on 12.03.2015 for consideration of the representation filed by the applicant for revocation of the order of suspension as well as the recommendation, based on which the period of suspension of the applicant has been extended for a period of 180 days w.e.f. 24.03.2015, which came to an end on 23.09.2015. Nothing has been stated by the respondents in their counter about any recommendation of the Review

Committee as well as subsequent extension of the period of suspension for further period beyond 13 on 23.09.2015. As discussed above, sub-rule 6 of Rule 10 of 1965 Rules mandates review of the suspension by a Review Committee and passing of an order by the authority, based on the recommendation of the Review Committee, extending the period of suspension.

20. In view of the above, we are of the opinion that the further suspension of the applicant cannot be sustained in law for not conducting the review and for not passing any order extending the period of suspension beyond 23.09.2015 and hence it is set aside. The applicant shall be allowed to resume his duty. It is, however, open to the respondent-authority to transfer the applicant out of the place of his last posting, if interest of public service so require.

21. The necessary decision relating to the period of suspension of the applicant would be taken by the Disciplinary Authority after closure of the criminal proceedings against the applicant. It is also open to the Disciplinary Authority to initiate the disciplinary proceeding against the applicant, if so advised.

22. OA is, accordingly, allowed to the extent indicated above. No costs."

3. Instead of challenging the main order of the Tribunal in the High Court, Union of India (UOI) has filed the present Review Petition on the ground that main order of this Tribunal suffers ex-facie error in as much as directing the UOI to reinstate the applicant (therein). It was alleged that the suspension period of the applicant was duly extended vide orders dated 17.08.2014, 23.03.2015 and 17.09.2015 and the applicant (therein) was not entitled to be reinstated in service.

4. The applicant (in the main petition) refuted the allegations of the UOI, filed the reply inter alia pleading that the review application is barred by limitation. The orders extending the suspension period were neither communicated nor were in the knowledge of the applicant. That the respondents (therein) were stated to have passed the alleged orders at the back of the applicant, in order to create false ground, which were never delivered or communicated to the applicant. It will not be out of place to mention here that the applicant has stoutly denied all other allegations contained in the review petition and prayed for its dismissal.

5. After hearing the learned counsel for the parties and going through the record with their valuable help, we are of the considered opinion that there is no merit in the instant review petition.

6. As is clear that provision of Rule 10 of CCS (CCA) Rules, 1965 (hereinafter referred as CCS (CCA) Rules) regulates the matter of suspension of an employee. Sub Rule 6 posits that a 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 effective date 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 expiry of the extended period of suspension and extension of suspension shall not be for a period exceeding one hundred and eighty days at a time. Similarly, according to Sub-Rule 7 an order of suspension made or deemed to have been made under Sub-Rule 1 or Rule 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 90 days.

7. Meaning thereby, the reviewing committee has to pass an order of extension of suspension before the expiry of statutory period of 90 days or 180 days, as the case may be and any such order passed after the said period would be invalid and inoperative. No doubt the UOI has claimed that the review committee has extended the period of suspension of applicant vide orders dated 17.08.2014, 23.03.2015 and 17.09.2015 but, it has neither been mentioned in the review petition nor any such record is forthcoming to suggest even remotely that the last order of extension of suspension was passed, before the expiry of the statutory period and was delivered or conveyed to the applicant. Therefore, it was incumbent upon the reviewing committee to prove that the last order of extension of suspension was passed, before the expiry of statutory period, and it was delivered or conveyed to the applicant. It is totally lacking in the instant case. In that eventuality, order of extension of period of suspension of the applicant cannot be termed to be a valid order. In this matter indeed there is no error apparent on the face of the record which is a condition precedent to invoke the jurisdiction of review of this Tribunal.

8. In the light of aforesaid reasons, since there is no merit, so the instant Review Petition is hereby dismissed as such, however, with no order as to costs.

(K. N. Shrivastava)
Member (A)

(Justice M. S. Sullar)
Member (J)

/Maya/