

**Central Administrative Tribunal  
Principal Bench**

**OA No.1380/2017**

New Delhi, this the 2<sup>nd</sup> day of August, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman  
Hon'ble Mr. K. N. Shrivastava, Member (A)**

Tarun Sharma S/o P. C. Sharma,  
Working as *ad hoc* DANICS Officer,  
GNCT of Delhi, New Delhi  
R/o 766, Guru Apartments,  
Sector 14, Rohini, New Delhi.

... Applicant

( By Mr. Yogesh Sharma, Advocate )

Versus

1. Government of NCT of Delhi through  
Chief Secretary, Delhi Secretariat,  
I.P. Estate, New Delhi.
2. Commissioner (VAT),  
Department of Trade & Taxes,  
Government of NCT of Delhi,  
Vyapar Bhawan, I.P. Estate,  
New Delhi.
3. Assistant Commissioner (Vig.),  
Department of Trade & Taxes,  
Government of NCT of Delhi,  
Vyapar Bhawan, I.P. Estate,  
New Delhi.

... Respondents

( By Mr. N. K. Singh, Advocate )

**O R D E R**

**Justice Permod Kohli, Chairman :**

The applicant was working as Deputy Secretary to the Chief Minister, GNCT of Delhi during the period 2015-2016. An FIR RC-

42(A)/2015 was registered in the Central Bureau of Investigation, Anti Corruption Branch, Delhi against him. He was arrested during the investigation in connection with the said case and remained in custody for a period exceeding 48 hours. He was released on bail on 02.08.2016.

2. Vide impugned order dated 06.07.2016, the applicant was placed under suspension with effect from the date of detention, i.e., 04.07.2016, in terms of sub-rule (2) of rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. This suspension order was communicated to the applicant vide letter dated 19.07.2016. His suspension was later extended vide orders dated 26.09.2016 and 22.03.2017 for a further period of 180 days on each occasion, on the recommendation of the suspension review committee.

3. Aggrieved of his suspension, the applicant filed this OA challenging the suspension order primarily on the ground that no charge-sheet has been filed in the competent court during the period of 90 days from the date of initial suspension, and thus the subsequent extensions of suspension are illegal. The applicant relies upon the judgment of the Hon'ble Supreme Court in *Ajay Kumar Choudhary v Union of India & others* [(2015) 7 SCC 291].

4. Despite notice, reply has not been filed by the respondents. Since the controversy is settled by the Apex Court, an enquiry was made from Mr. N. K. Singh, learned counsel appearing on behalf of the respondents, as to whether a charge-sheet was filed against the applicant within 90 days from the date of initial suspension. His answer is emphatic no. The Apex Court in *Ajay Kumar Choudhary v Union of India & others* (*supra*) has made following observations/directions:

“20. It will be useful to recall that prior to 1973 an accused could be detained for continuous and consecutive periods of 15 days, albeit, after judicial scrutiny and supervision. The Code of Criminal Procedure, 1973 contains a new proviso which has the effect of circumscribing the power of the Magistrate to authorise detention of an accused person beyond a period of 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years, and beyond a period of 60 days where the investigation relates to any other offence. Drawing support from the observations contained of the Division Bench in *Raghubir Singh v. State of Bihar* [(1986) 4 SCC 481 : 1986 SCC (Cri) 511] and more so of the Constitution Bench in *Antulay* [(1992) 1 SCC 225 : 1992 SCC (Cri) 93] , we are spurred to extrapolate the quintessence of the proviso to Section 167(2) CrPC, 1973 to moderate suspension orders in cases of departmental/disciplinary enquiries also. It seems to us that if Parliament considered it necessary that a person be released from incarceration after the expiry of 90 days even though accused of commission of the most heinous crimes, a fortiori suspension should not be continued after the expiry of the similar period especially when a memorandum of charges/charge-sheet has not been served on the suspended person. It is true that the proviso to Section 167(2) CrPC

postulates personal freedom, but respect and preservation of human dignity as well as the right to a speedy trial should also be placed on the same pedestal.

21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

5. In view of the dictum of the aforesaid judgment, the continuous suspension of the applicant is not sustainable in law. This OA is accordingly allowed. Suspension of the applicant beyond initial 90 days is hereby set aside and the extension orders dated

26.09.2016 and 22.03.2017 are quashed. The respondents are directed to reinstate the applicant within a period of one week from the date of receipt of this order. The applicant shall also be entitled to full salary on expiry of 90 days of initial suspension. Insofar as the initial suspension of 90 days is concerned, on termination of the criminal proceedings and depending upon its outcome, the competent authority shall take decision regarding the aforesaid period in accordance with Fundamental Rule 54-B. No costs.

**( K. N. Shrivastava )**  
**Member (A)**

**( Permod Kohli )**  
**Chairman**

/as/