

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

**O.A No.2304/2016**

**New Delhi this the 18<sup>th</sup> day of July, 2016**

**Hon'ble Mr. Justice M. S. Sullar, Member (J)  
Hon'ble Mr. Shekhar Agarwal, Member (A)**

Pradeep Kumar Singh  
S/o Shri Ramji Lal  
Aged about 45 years  
Presently Section Officer  
(under suspension) in  
Ministry of Home Affairs,  
R/o F-10/24, New Rajnagar,  
Ghaziabad-201002 (UP)  
Presently in Delhi. ....Applicant

(Argued by: Shri Nilansh Gaur, Advocate)

Versus

Union of India,  
Through its Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi. ..Respondent

**ORDER (ORAL)**

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

The challenge in this Original Application (OA), filed by applicant, Pradeep Kumar Singh S/o Shri Ramji Lal, Section Officer (SO), is to the impugned Memorandum of Charge dated 09.06.2016 (Annexure A-1) and order dated 18.03.2016 (Annexure A-2), whereby the period of his suspension was further extended by 180 days with effect from 21.03.2016 by the competent authority.

2. The compendium of the facts and material, expository from the records, which needs a necessary mention, for the limited purpose of deciding the core controversy, involved in the instant OA, at this preliminary stage of the enquiry is that, applicant, while working as SO in Foreigners Division, Ministry of Home Affairs, allegedly demanded and accepted illegal gratification of Rs.15,000/- from Ms. Noeurm Sopheap, a Cambodian National. He was placed under deemed suspension with effect from the date of his detention, i.e., 17.02.2012 vide order dated 03.02.2012. The period of his suspension was extended from time to time. Ultimately, his period of suspension was extended by the competent authority vide impugned order dated 18.03.2016 (Annexure A-2).

3. As a consequence thereof, the applicant was dealt with departmentally under the provisions of Central Civil Services (Classification, Control & Appeal) Rules, 1965 [hereinafter to be referred to as “CCS(CCA) Rules”]. He was served with the Memorandum dated 09.06.2016 (Annexure A-1), Statement of Imputation of Misconduct or Misbehaviour and following Article of Charge:-

“That Shri Pradeep Kumar Singh, while working as Section Officer in Foreigners Division, Ministry of Home Affairs, demanded and accepted illegal gratification of Rs.15,000/- in connection with extending Visa of a Cambodian national – Ms. Noeurm Sopheap. He also unauthorisedly communicated information in this regard to a private individual/firm in violation of Rule 11 of the CCS (Conduct) Rules, 1964.

By the aforesaid act, Shri Pradeep Kumar Singh has demonstrated utter lack of integrity and devotion to duty and indulged in an activity unbecoming of a Government servant, thereby violating the Rules 3 (1) (i), (ii) and (iii) of CCS (Conduct) Rules, 1964”.

4. Instead of participating in, and to allow the Departmental Enquiry (DE) to proceed smoothly, the applicant has straightaway jumped to file the instant OA, challenging the impugned charge-sheet dated 09.06.2016 (Annexure A-1) and order dated 18.03.2016 (Annexure A-2), invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985.

5. Having heard the learned counsel for the applicant, having gone through the record with his valuable help and after considering the entire matter, we are of the firm view that there is no merit and the present OA deserves to be dismissed, at this preliminary stage of enquiry, for the reasons mentioned hereinbelow.

6. Ex-facie, the arguments of the learned counsel that since, having extended the benefit of doubt, the applicant was acquitted of the similar charge in the criminal case by Special Judge, CBI, New Delhi, vide judgment of acquittal dated 12.02.2016 (Annexure A-5), so the impugned charge-sheet Annexure A-1) and order dated 18.03.2016 (Annexure A-2), are illegal, arbitrary and liable to be quashed, is neither tenable nor the observation of Hon'ble Apex Court in the case of **S. Bhaskar Reddy and Another Vs. Superintendent of Police and Another (2015) 2 SCC 365**, are at all applicable to the facts of the present case at this stage, wherein the appellants (therein) were appointed as Armed Reserve Constables by the

Superintendent of Police Chittoor, Andhra Pradesh. They were transferred on deputation to the Office of the Superintendent of Police, Railways, Guntakal. While they were on deputation with the Railway Police, it was alleged that they were implicated in a murder case and the charge memo was issued to them on 11.09.2004. DSP of Railway Police was appointed as an Enquiry Officer who submitted his enquiry report. Subsequently, they were repatriated to their parent department. On 27.03.2007, Respondent No.1, the borrowing department, passed dismissal orders against both the appellants without following the due procedure of DE. They approached and the Tribunal set aside the order of dismissal. However, the Writ Petition filed by the Department against them was allowed by the High Court. So, on the peculiar facts and in the special circumstances of that case, it was observed that High Court had erred in not considering the fact of honourable acquittal of the appellants in the DE.

7. Possibly, no one can dispute with regard to the aforesaid observation, but the same would not come to the rescue of the applicant in the present controversy, as that stage has not yet reached in the present case.

8. What cannot possibly be disputed here is, that the competent authority has the power and jurisdiction to extend the period of suspension for a further period of 180 days, as contemplated under sub-rule (6) & (7) of Rule 10 of CCS(CCA)

Rules. Accordingly, the competent authority has extended the period of suspension of the applicant, vide impugned order dated 18.03.2016 (Annexure A-2), which cannot be interfered with, at this stage, on speculative grounds, as claimed by the applicant.

9. As indicated hereinabove, moreover, the applicant was not honourably acquitted, but only benefit of doubt was extended to him by the Criminal Court by way of judgment (Annexure A-5) (which has not even yet attained the finality). What would be the import and effect of acquittal based on the benefit of doubt and other issues, pleaded and now sought to be urged, on behalf of the applicant, indeed cannot be adjudicated upon directly by this Tribunal, without any evidence, at this stage. The DA will naturally consider the reply to the charge sheet filed by the applicant. If the reply to the charge sheet is found to be unsatisfactory, only then the DA will order for further proceeding in the DE. Then the EO would consider the evidence, brought on record by the parties, at the first instance. Then DA and AA will appreciate and assess the evidentiary value of the material produced by the parties, during the course of enquiry.

10. Be that as it may, in any case, this Tribunal has no jurisdiction to decide such intricate questions without any evidence, at this preliminary stage of enquiry. This matter is no more res integra and is now well settled.

11. An identical issue came to be decided by the Hon'ble Supreme Court in a celebrated judgment in the case of ***Union of India Vs. Upendra Singh (1994) 3 SCC 357***, wherein having considered the scope of judicial review, at the stage of framing the charge, it was ruled as under:-

“6. In the case of charges framed in a disciplinary inquiry the tribunal or court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the tribunal has no jurisdiction to go into the correctness or truth of the charges. The tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to court or tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be...”

12. Therefore, it is held that the OA challenging the impugned Article of Charge dated 09.06.2016 (Annexure A-1) and impugned order of extension of suspension period of the applicant dated 18.03.2016 (Annexure A-2), is not maintainable at this stage. No extraordinary ground, much less cogent, to entertain this OA, at this premature stage is made out, in view of the law laid down by the Hon'ble Apex Court in the cases of ***S.S. Rathore Vs. State of Madhya Pradesh (1989) 4 SCC 582*** and ***The Govt. of A.P. and Others Vs. P. Chandra Mouli and Another (2009) 13 SCC 272***.

Therefore, we are not inclined to entertain this OA at this stage. Hence, the contrary arguments of the applicant that the OA is liable to be allowed at this stage “*stricto-sensu*” deserves to be and are hereby repelled.

13. No other point, worth consideration, has been urged or pressed by learned counsel for the parties.

14. In the light of the aforesaid reason and without commenting further anything on merit, lest it may prejudice the case of either side during the course of disciplinary proceeding, as there is no merit, so the instant OA is hereby dismissed as such, in the obtaining circumstances of the case.

15. Needless to mention that nothing observed herein above, would reflect on the merits of the case in any manner, during the departmental proceedings, as the same has been so recorded for a limited purpose for deciding the present OA at this preliminary stage. No costs.

**(SHEKHAR AGARWAL)**  
**MEMBER (A)**

**(JUSTICE M.S. SULLAR)**  
**MEMBER (J)**

**Rakesh**