

**Central Administrative Tribunal
Principal Bench**

OA No.1944/2017

New Delhi, this the 31st day of May, 2017

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

Hom Karan
Ad hoc DANICS/VATO
Under suspension since 13.6.2014
Aged about 50 years,
S/o Late Chiranjee Lal
R/o A/11-B, DDA Flats, Sarai Basti,
Sarai Rohilla, Delhi-35.

..... Applicant.

(By Advocate : Shri Anil Singal)

Vs.

1. Lt. Governor of Delhi
Raj Bhawan, Delhi.
2. Govt. of NCT of Delhi
Through its Chief Secretary
Delhi Secretariat
IP Estate, New Delhi.
3. Commissioner
Trade & Taxes, Vyapaar Bhawan,
IP Estate, New Delhi.

... Respondents.

(By Advocate : Shri N. K. Singh for Mrs. Avnish Ahlawat)

: O R D E R (ORAL) :

Justice Permod Kohli, Chairman:

The applicant is an ad hoc DANICS Officer. He was placed under suspension vide order dated 13.06.2014 in contemplation of the disciplinary proceedings under sub rule (1) of Rule 10 of the CCS (CCA) Rules, 1965. His suspension has been extended by 180 days

w.e.f. 10.09.2014 on the recommendations of the Suspension Review Committee. His suspension has been again extended vide orders dated 03.03.2015 for 90 days, 26.02.2015 for 180 days, 01.12.2015 for 90 days, 26.02.2016 for 90 days, 24.05.2016 for 180 days, 21.11.2016 for 180 days and 19.05.2017 for 180 days. His last extension is w.e.f. 20.05.2017.

2. This Application has been filed seeking the following reliefs:-

- “1. To quash and set aside the impugned Orders dated 13.6.2014, 3.9.2014, 3.3.2015, 2.6.2015, 1.12.2015, 26.2.2016, 24.5.2016, 21.11.2016 and 19.5.2017 with all consequential benefits including arrears of pay and allowances w.e.f. 10.9.2014.
2. To award costs in favor of the applicant and pass any order or orders, which this Hon’ble Tribunal may deem just & equitable in the facts & circumstances of the case.”

3. The applicant has, in fact, challenged his continued suspension beyond 90 days without serving him charge sheet. He has placed on record the charge sheet issued to him vide Memo dated 26.04.2016. Keeping in view the limited facts, while issuing notice, Shri N. K. Singh, learned counsel appearing for the respondents was directed to seek instructions in the matter. He has reported instructions, and admitted that the charge sheet was issued to the applicant only on 26.04.2016.

4. The challenge to the continued suspension beyond 90 days is primarily on the ground that the same is impermissible in law without serving charge sheet within a period of 90 days. The

controversy is no more *res integra* having been settled by the Apex Court in the case of *Ajay Kumar Choudhary vs. Union of India through its Secretary and Another* (2015) 7 SCC 291. The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training have also issued Office Memorandum dated 23.08.2016 implementing the judgment in *Ajay Kumar Choudhary's case (supra)*, wherein following instructions have been issued:-

“2. In compliance of the above judgment, it has been decided that where a Government servant is placed under suspension, the order of suspension should not extend beyond three months, if within this period the charge sheet is not served to the charged officer. As such, it should be ensured that the charge sheet is issued before expiry of 90 days from the date of suspension. As the suspension will lapse in case this time line is not adhered to, a close watch needs to be kept at all levels to ensure that charge sheets are issued in time.”

5. In view of the above mentioned factual position, Office Memorandum dated 23.08.2016 and the law laid down by the Apex Court in *Ajay Kumar Choudhary's case (supra)*, this OA is allowed without insisting for counter. The suspension of the applicant beyond 90 days of suspension is hereby declared as illegal and *non est*. All extension orders of continued suspension beyond 90 days, i.e., 3.9.2014, 3.3.2015, 2.6.2015, 1.12.2015, 26.2.2016, 24.5.2016, 21.11.2016 and 19.5.2017 are hereby quashed. As a consequence of setting aside of the extension orders of suspension, following directions are issued to the respondents:-

- (i) the applicant be reinstated in service within a period of one week from the date of receipt of copy of this order.
- (ii) during the suspension, applicant has been paid subsistence allowance. Differential amount between the subsistence allowance already paid and the admissible salary may be calculated and paid to the applicant within a period of two months.
- (iii) insofar as the initial period of suspension for a period of 90 days vide order dated 13.06.2014 is concerned, the respondents to take decision for the said period in accordance with Fundamental Rule 54-B on culmination of the disciplinary proceedings.

(K. N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

/pj/

