

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.3682/2015

Order Reserved on:22.04.2016

Pronounced on:11.05.2016.

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

Smt. Archana Ramasundaram,
W/o Sri S. Ramasundaram,
Presently working as Director General
National Crime Bureau,
East Block-VII,
R.K. Puram,
New Delhi-110066.

-Applicant

(Shri R. Venkataramani, Sr. Advocate with Ms. V.
Vijayalakshmi, Ms. Neelam Singh and Shri L.R.
Khatana, Advocates)

-Versus-

1. State of Tamil Nadu,
Through Chief Secretary,
Government of Tamil Nadu,
Secretariat,
Chennai-9.

2. Union of India through
Home Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.

-Respondents

(By Advocate Shri Chetan Sharma, Sr. Advocate with Shri Sandeep Khurana and Ms. Seemab Ali Fatima for R-1 and Shri Dev P. Bhardwaj for R-2)

O R D E R

Mr. K.N. Shrivastava, Member (A):

This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985. The main relief prayed for in the OA is to quash and set aside the charge-sheet issued by respondent no.1 to the applicant.

2. The brief facts of this case are as under:

2.1 The applicant belongs to 1980 batch of Indian Police Service (IPS) borne on Tamil Nadu cadre. At the relevant point of time, she was posted as Additional Director General of Police (ADGP)/Member, Tamil Nadu Uniformed Services Recruitment Board (TNUSRB). The State Government sent her name for central deputation on 15.10.2013 vide their communication to Government of India at Annexure A-2. With the approval of the Competent Authority,

i.e., Appointments Committee of the Cabinet (ACC), she was appointed as Additional Director, CBI for a period of four years vide Annexure A-4 order of Department of Personnel and Training (DOPT) dated 07.02.2014. The Ministry of Home Affairs (MHA), i.e., respondent no.2, requested the State Government of Tamil Nadu (i.e., respondent no.1) to relieve the applicant so as to enable her to take up her new assignment in the Central Government. Despite reminders from respondent no.2, viz. Annexure A-7 and A-8, the respondent no.1 did not relieve the applicant. Finally, the DOPT issued Annexure A-9 order dated 07.05.2014 directing the applicant to assume the charge of the post of Additional Director, CBI immediately. The relevant para-3 of the said communication reads as under:

“In view of the fact that your name has been forwarded by the State Government of Tamil Nadu, you have been appointed by the ACC; such appointment has been communicated to the State Govt. by your cadre controlling authority; several reminders have been given by DOPT to the State Govt. and the urgency for filling up this vacancy as made by the Director,

CBI; you are requested to assume your charge as Additional Director, CBI immediately.”

2.2 The applicant, vide her Annexure A-10 letter to the Chief Secretary of State Government, informed to him that in view of the Annexure A-9 order dated 07.05.2014 of DOPT, she is relinquishing her charge and proceeding to Delhi to assume the charge of the new post on 08.05.2014 (Annexure A-11).

2.3 The respondent No.1 took a serious view of the applicant getting herself self-relieved and placed her under suspension contemplating starting of the disciplinary enquiry (DE) against her vide their Annexure A-12 order. The contents of the said order are reproduced below:-

“WHEREAS disciplinary proceedings against Tmt. Archana Ramasundaram, IPS, Director General of Police/Chairperson, Tamil Nadu Uniformed Services Recruitment Board, Chennai, are contemplated.

NOW THEREFORE, the Government in exercise of the powers conferred by clause (a) of sub-rule (1) of rule 3 of the All India Services (Discipline and Appeal) Rules, 1969, hereby placed the said Tmt.Archana Ramasundaram, IPS, Director General of Police/Chairperson, Tamil Nadu Uniformed Services Recruitment

Board, Chennai, under suspension with immediate effect.

2. It is further ordered that during the period that this order shall remain in force, the Headquarters of Tmt./Archana Ramasundarm, IPS, shall be Chennai.”

2.4 The Secretary, DOPT vide his Annexure A-14 letter dated 16.05.2014 wrote to the Chief Secretary that the suspension of the applicant vide Annexure A-12 order of the State Government, i.e., respondent no.1 was not proper. He also quoted the provisions of Rule 3 (1) of All India Services (Discipline & Appeal) Rules, 1969 (AIS Rules, for short) and said that the applicant has joined her Central Government deputation as per the order of the Competent Authority in the Central Government. Hence, as per Rule 3 (1) of AIS Rules, the State Government cannot take unilateral disciplinary action against the applicant. The said Rule is reproduced below:

“3 (1) If, having regard to the circumstances in any case and, where articles of charge have been drawn up, the nature of the charges, the Government of a State or the Central Government, as the case may be, is satisfied that it is necessary or desirable to place under suspension a member of the Service, against whom

disciplinary proceedings are contemplated or are pending, that Government may—

(a) if the member of the Service is serving under that Government, pass an order placing him under suspension, or

(b) if the member of the Service is serving under another Government request that Government to place him under suspension, pending the conclusion of the disciplinary proceedings and the passing of the final order in the case.

Provided that, in cases, where there is a difference of opinion,—

(i) between two State Governments, the matter shall be referred to the Central Government for its decision ;

(ii) between a State Government and the Central Government, the opinion of the Central Government shall prevail.”

2.5 The Chief Secretary, vide his Annexure A-15 letter, replied to Annexure A-14 letter of Secretary, DOPT in which, explaining the stand of the respondent no.1, raised the following important issues:

a) The local media carried reports regarding certain controversies surrounding the appointment of the applicant as Additional Director, CBI. It was also reported that the Central Vigilance Commission (CVC) did not recommend her name for the ibid appointment and that her appointment has been done

in an arbitrary manner in contravention of the laid down measures under the CVC Act and Delhi Special Police Establishment Act.

b) The journalist Shri Vineet Narain has given interview to the press that he will challenge the appointment in the Hon'ble Supreme Court.

c) Shri Vineet Narain filed a Writ Petition in the Hon'ble Supreme Court on 29.03.2014 challenging the appointment of the applicant as Additional Director, CBI. The Hon'ble Supreme Court heard the matter on 09.05.2014 and restrained the applicant from discharging her duties as Additional Director, CBI although the Solicitor General had informed to the Court that the applicant has already joined her new posting in the Central Government on 08.05.2014 pursuant to Annexure A-9 order of respondent no.2 but the Hon'ble Apex Court did not express any opinion on that.

d) Pursuant to the notice to her from the Hon'ble Supreme Court, the applicant had filed a counter

affidavit on 03.05.2014 stating therein that she is awaiting her to be relieved by the State Government so as to join her posting as Additional Director, CBI in the Central Government. Hence, self-relieving herself by the applicant pursuant to Annexure A-9 order of the DOPT was a premeditated action of the applicant to undermine the disciplinary authority of the State Govt. and to pre-empt any adverse order in Hon'ble Supreme Court in the hearing scheduled on 09.05.2014. Thus the applicant has indulged in an act of misconduct. Respondent no.1 was, therefore, justified to suspend her for the said misconduct vide their Annexure A-12 order dated 08.05.2014 and to start DE against her.

2.6 Respondent no.1 vide Annexure A-16 order dated 18.06.2014 issued the impugned charge-sheet to the applicant in which the following two charges have been levelled against her:

“Charge-1

That you Tmt. Archana Ramasundaram, IPS while serving in the affairs of the Government of Tamil Nadu, deserted the post of

Chairperson, Tamil Nadu Uniformed Services Recruitment Board, Chennai on 07.05.2014 and left headquarters to proceed to assume charge as Additional Director, Central Bureau of Investigation, New Delhi without getting relieving orders of the Government of Tamil Nadu , and without properly handing over the charge of the post of Chairperson, Tamil Nadu Uniformed Services Recruitment Board. Thus, you have conducted yourself in a manner unbecoming of a member of the Service and failed to maintain absolute integrity and devotion to duty, violating sub-rule (1) of rule 3 of the All India Services (Conduct) Rules, 1968.

Charge-2

That you, Tmt. Archana Ramasundaram, IPS while serving in the affairs of the Government of Tamil Nadu, deserted the post of Chairperson, Tamil Nadu Uniformed Services Recruitment Board, Chennai, have signed the relieving form on your own accord without having received any relieving order from the State Government and without intimation to the competent authority, left headquarters without due permission. Thus, you have conducted yourself in a manner unbecoming of a member of the Service and failed to maintain absolute integrity and devotion to duty, violating sub-rule (1) of rule 3 of the All India Services (Conduct) Rules, 1968.”

2.7 The applicant filed an appeal under Rule 16 (1) of the AIS Rules to respondent no.2 praying therein for the following reliefs:

“a. Declare that the impugned order dt. 08.05.2014 issued by the Government of Tamil Nadu is without any authority and lacks any

legal merit whatsoever and set-aside/quash the same.

b. Declare that the impugned order dt. 08.05.2014 is void ab initio and non-est and that any subsequent actions/orders issued pursuant thereto including the charge memo dt. 18.06.2014 is void and non est.

c. It is further prayed that pending the present appeal, the Competent Authority may direct the State Government not to take any coercive steps against me in relation to the present matter.”

2.8 The respondent no.2 (MHA) vide Annexure A-28 order dated 30.04.2015 set aside the Annexure A-12 suspension order dated 08.05.2014 passed by respondent no.1 and reinstated the applicant in service.

2.9 The applicant has filed the instant OA praying for quashing and setting aside Annexure A-16 charge-sheet dated 18.06.2014 issued by respondent no.1 to her.

3. Pursuant to the notice the respondents entered appearance and filed their reply. Thereafter the applicant filed her rejoinder to the reply filed on behalf of respondent no.1. She also filed an

additional affidavit placing some additional documents on record. With the completion of the pleadings the case was taken up for final hearing on 22.04.2016. Shri R. Venkataramani, Sr. Advocate with Ms. V. Vijayalakshmi, Ms. Neelam Singh and Shri L.R. Khatana, learned counsel for the applicant and Shri Chetan Sharma, Sr. Advocate with Shri Sandeep Khurana and Ms. Seemab Ali Fatima for respondent no.1 and Shri Dev P. Bhardwaj for respondent no.2 argued the case.

4. The main grounds taken by the applicant in support of her case are as follows:

a) Annexure A-16 charge-sheet issued by respondent no.1 to the applicant is illegal and *ab initio* void since the applicant was not working under the control of respondent no.1 at the relevant point of time.

b) Respondent no.1 placed the name of the applicant on the offer list for the consideration of the Central Government for her appointment on

deputation basis; pursuant to which the Competent Authority in the Central Government vide Annexure A-4 order dated 07.02.2014 appointed the applicant to the post of Additional Director, CBI.

c) After the issue of Annexure A-9 order by the Central Government (DOPT), the applicant had no option except to join her new assignment of Additional Director, CBI under the central deputation.

d) Vide Annexure A-14 letter of DOPT, it has been made absolutely clear by the Central Government to respondent no.1 that under Rule 3 (1) of AIS Rules, respondent no.1 cannot suspend the applicant as she was on deputation to Govt. of India at the relevant point of time.

e) Respondent no.2 had requested several times to respondent no.1 to relieve the applicant so that she could take up her new assignment. It is on account of respondent no.1 failing to act in the matter that the respondent no.2, vide Annexure A-9 order, directed the applicant to join her new posting forthwith.

f) Rule 6 of the IPS (Cadre) Rules, 1954 (Cadre Rules, for short) states that the decision of the Central Govt. in such matters is final.

g) The applicant did not desert her charge as ADGP/Member, TNUSRB. As a matter of fact, on getting herself self relieved, she sent an intimation about Annexure A-9 order of the DOPT, to the Chief Secretary of the State Government before proceeding to New Delhi to join her new posting.

5. The learned counsel for the applicant, besides highlighting the grounds raised in the OA and the rejoinder, submitted that the applicant being a member of an All India Service was duty bound to obey the Annexure A-9 order of the Central Government. It was also submitted that the Central Govt. is the Cadre Controlling Authority (CCA) for the All India Services to one of which the applicant belongs and that only the Central Government selects officers for the All India Services and allocates them to various State cadres. The State Governments have no role in such matters. The learned counsel argued

with a bit of vehemence that once the State Government have forwarded the name of an officer for central deputation, subsequent authority to deal with the candidature of the officer rests entirely with the Central Govt. and hence after the Central Government have approved appointment of such an officer, the services of the officer shall have to be placed at the disposal of the Central Govt. and the officer shall cease to be working with the State Govt. The learned counsel further argued that in the instant case, the Competent Authority in the Central Govt., i.e., ACC approved the appointment of the applicant as Additional Director, CBI on 17.04.2014 pursuant to which several communications were sent by respondent no.2 to respondent no.1 to relieve the applicant but since respondent no.1 failed to act in the matter, the Central Govt. was left with no option except to issue Annexure A-9 order directing the applicant to join her new posting forthwith. He said that respondent no.1 was obliged to issue the relieving order within a reasonable time. In this

connection, the learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in the case of **State of Gujarat v. Patil Raghav Natha**, [(1969) 2 SCC 187].

6. The learned counsel of the applicant further submitted that respondent no.1 was deliberately frustrating the orderly assumption of charge by the applicant and when the applicant got herself self-relieved pursuant to Annexure A-9 order of the DOPT, the same has been held as a misconduct by the applicant for which the impugned charge-sheet has been issued to her. Hence, the impugned action of respondent no.1 was violative of Article 14 of the Constitution of India, as held by the Hon'ble Supreme Court in the case of **Vice Chancellor, Banaras Hindu University & Others v. Shrikant**, [(2006) 11 SCC 42].

7. Regarding the issue of misconduct, the learned counsel for the applicant submitted that the conduct of the applicant of getting herself self-relieved and joining her new posting pursuant to Annexure A-9

order of the Central Govt. (DOPT) cannot be construed as a misconduct. He said that the law on the issue is well settled by the Hon'ble Apex Court. An act can be called as misconduct if it was deliberate or wilful, with intent to violate or misbehave or disregard any binding Rule or Code of Conduct. He said that applicant has merely obeyed the order of respondent no.2 and such act of the applicant cannot be called as misconduct. In this regard, the learned counsel placed reliance on the judgements of the Hon'ble Supreme Court in the following cases:

- i) **Union of India v. J. Ahmed**, [(1979) 2 SCC 286.
- ii) **A.L. Kalra v. Project and Equipment Corporation of India Ltd.**, [(1984 (3) SCC 316].
- iii) **Inspector Prem Chand v. Govt. of NCT of Delhi & Ors.**, [(2007) 4 SCC 566].
- iv) **Dr. U.N. Biaswas v. Union of India**, [1998 (8) SLR 08].

8. On the allegation of respondent no.1 that the applicant deserted her charge which demonstrated her misconduct, he said that the applicant's joining

her new posting on central deputation cannot be called as 'desertion' within the meaning of Rule 3 (1) of the AIS (Conduct) Rules, 1968. He said that 'desertion' means abandonment or withdrawing from engagement or employment. In this regard he placed reliance on a judgment of the Hon'ble Rajasthan High Court in the case of **State of Rajasthan v. Rawat Singh**, [AIR 1957 (Raj. 26)].

9. The learned counsel for the applicant also stated that the Annexure A-12 order of suspension issued by respondent no.1 has already been set aside by the Central Government and thus the cause for which the applicant was illegally suspended by respondent no.1 ceases to exist and hence there cannot be any DE instituted against the applicant for the same cause. He further argued that the applicant is an innocent officer, who has been mindlessly being persecuted and harassed by respondent no.1. He said that it is well settled that departmental enquiry can be initiated only for good and sufficient reasons,

as held by the Hon'ble Supreme Court in the following judgments:

- i) **Union of India v. Upendera Singh**, [(1994) 3 SCC 357]; and
- ii) **State of Punjab v. V.K. Khanna & Ors.**, [(2001) 2 SCC 330].

The same view has also been taken by this Tribunal in the case of **K.J. Kakanwar v. Ministry of Woman and Child Development**, OA No.1005/2009 decided on 14.02.2009.

10. Concluding his arguments, the learned counsel for the applicant submitted that the conduct of the applicant in question does not pre-date 15.10.2013 (the date when respondent no.1 forwarded the applicant's name for central deputation and also gave vigilance clearance) nor 07.02.2014 (the date when ACC approved applicant's appointment as Additional Director, CBI) and hence taking into consideration all theses aspects, the prayers made in the OA may be allowed.

11. Per contra, learned counsel for respondent no.1 submitted that the applicant in her affidavit dated 03.05.2014 filed before the Hon'ble Supreme Court in connection with the Writ Petition filed by Shri Vineet Narain has clearly stated that she is awaiting orders of the State Govt. to relieve her so that she could join her new posting as Additional Director, CBI on central deputation. As such, her unilateral action of getting herself self relieved without getting the relieving order from the State Govt. amounts to committing misconduct. The learned counsel also submitted that Annexure A-9 order of the DOPT dated 07.05.2014 has been signed by an Under Secretary but the order does not say as to the authority who had directed him to issue the said order and as such the credibility and authenticity of Annexure A-9 order get shrouded with suspicion. The learned counsel further stated that the Hon'ble Supreme Court in their order dated 09.05.2014 in W.P.(C) No.309/2014 have restrained the respondents (Govt. of India) from henceforth allowing the applicant to discharge the functions of

Additional Director, CBI until the next date. He further submitted that a Division Bench of Hon'ble Delhi High in their order dated 06/11/2015 in LPA No.806/2015 has observed as under:

“This Court is of the opinion that the observations with regard of locus have to be understood in the context of the circumstances alone, i.e., the power of the Central Government to impose suspension under Rule 16. It cannot be read as, in any manner, prejudging the powers of the State to initiate disciplinary proceedings or the lack of such power as is contended by the second respondent in the present case, because that is the subject matter of the proceedings before the Central Administrative Tribunal.”

He further submitted that if respondent no.2 feel that respondent no.1 are not obeying the ACC order, let respondent no.2 take up the matter in the Hon'ble Supreme Court in terms of Article 141 of the Constitution.

12. Regarding the submission made on behalf of the applicant that respondent no.1 have no powers to initiate DE against the applicant for her alleged misconduct after she has joined the Central Govt, the learned counsel cited the case of **Shailesh Kumar**

Yadav, IPS, who was on deputation with All India Institute of Medical Sciences (AIIMS) and later reverted to his State cadre of Tamil Nadu, disciplinary enquiry was initiated by the Central Govt. against him for his alleged misconduct committed during the period when he was on deputation with AIIMS.

13. The learned counsel for respondent no.1 further argued that the applicant has refused to participate in the DE started by the respondent no.1 and that the DE proceedings have not been fully concluded albeit the Enquiry Officer has submitted his report holding therein that the charges against the applicant are proved and thus the instant OA has been filed by the applicant before this Tribunal prematurely. He also submitted that the applicant's act of deserting her post amounts to grave misconduct for which the disciplinary action against her by respondent no.1 was fully justified. He also raised the issue of limitation in filing the instant OA stating that as per Section 21 of the Administrative Tribunals Act, 1985, within a period of one year from the date of the

impugned Annexure A-16 charge-sheet dated 18.06.2014 issued by respondent no.1 to her, the applicant ought to have challenged it before this Tribunal in an OA whereas the instant OA has been filed on 05.10.2015, i.e., beyond the statutory period of one year. He further said that the cause of action arose at Chennai and hence the OA ought to have been filed before the Chennai Bench of this Tribunal and not before the Principal Bench.

14. Concluding his arguments, the learned counsel submitted that the respondent no.1 have power under Rule 7 (1) (b) of AIS Rules to institute DE against the applicant and that the impugned charge-sheet issued by respondent no.1 to the applicant is in accordance with the rules and as such the OA may be dismissed being devoid of merit.

15. The learned counsel for respondent no.2 endorsed the arguments put-forth on behalf of the applicant. He submitted that Annexure A-9 order of DOPT dated 07.05.2014 was passed in exercise of the powers of the Central Govt. conferred under Rule 19

(2) of AIS Rules read with Rule 3 (1). The applicant has filed the appeal before the Central Government under Rule 16 (i) of the AIS Rules challenging the Annexure A-12 suspension order dated 08.05.2014 passed by respondent no.1. The respondent no.2 have allowed the appeal vide Annexure A-28 dated 30.4.2015 which has also been upheld by the Hon'ble High Court of Delhi vide their order dated 30.04.2015. The learned counsel prayed for allowing the OA.

16. We have carefully considered the arguments put-forth by the learned counsel for the parties and perused the pleadings and the documents annexed thereto. The applicant belongs to Indian Police Service (IPS) which is an All India Service. Under the Constitution of India All India Services (AIS) acquire a unique position in the governance of the affairs of the Central and State Governments. AIS are created under Article 312 of the Constitution of India. The relevant portion of the said Article is reproduced below:

“312. All India Services

[\(1\)](#) Notwithstanding anything in Chapter VI of Part VI or Part XI, if the Council of States has declared by resolution supported by not less than two thirds of the members present and voting that it is necessary or expedient in the national interest so to do, Parliament may by law provide for the creation of one or more all India services (including an all India judicial service) common to the Union and the States, and, subject to the other provisions of this Chapter, regulate the recruitment, and the conditions of service of persons appointed, to any such service.

[\(2\)](#) The services known at the commencement of this Constitution as the Indian Administrative Service and the Indian Police Service shall be deemed to be services created by Parliament under this article.

The Central Government is undoubtedly the CCA for AIS. Members of AIS are recruited by the Central Government and then allocated by the Central Government to various State cadres. These officers are required to serve State Governments as well as the Central Government. The Government has got a quota called Central Deputation Reserved (CDR) to take on deputation officers of AIS borne on different State cadres. As per the existing arrangement up to 40% of AIS officers of a State Cadre could be on deputation with the Central Government under the CDR. If the name of an officer is duly forwarded by the State Government concerned to the Central

Government for central deputation under the CDR and if that officer is given a posting by the Central Government but he fails to join his posting for any reason, he could be debarred by the Central Government for the Central Deputation for the period for which he was appointed on deputation basis. The service conditions of AIS officers are controlled and regulated by the Central Government and at times advice of the UPSC is also taken by the Central Government in such matters. A plain reading of various Subordinate Legislations brought out to regulate the service conditions of AIS officers would clearly reveal that in such matters the authority of the Central Government is numero uno viz. AIS (Conduct) Rules, 1968, AIS (Discipline & Appeal) Rules, 1969, IPS (Cadre) Rules, 1954.

17. Under Rule 3 (1) of the AIS Rules, if the State Government are satisfied that it is necessary or desirable to place under suspension a member of the Service against whom disciplinary proceedings are contemplated or are pending that Government may, if

the Member of the Service is serving under that State Government, pass an order placing him under suspension. This Section has a proviso, which says that in case there is difference of opinion between a State Government and the Central Government, the opinion of the Central Govt. shall prevail. In the case of the applicant, the State Govt. (respondent no.1) had suspended her entirely on the ground that she had got herself self-relieved for taking up her Central Government assignment pursuant to Annexure A-9 order dated 07.05.2014 from respondent no.2 directing her to that effect even without getting herself relieved by the State Govt. (respondent no.1). The suspension order (Annexure A-12) passed by respondent no.1 has been set aside by the Central Govt. in an appeal filed by the applicant, in exercise of their powers under Rule 16 (3) of the AIS Rules vide their Annexure A-14 letter dated 16.05.2014. Rule-16 clearly reaffirms the primacy of the authority of the Central Government in the service matters of AIS.

Respondent no.1 have not challenged the Annexure A-14 order of the Central Govt.

18. Records would reveal that the impugned Annexure A-16 charge-sheet dated 18.06.2014 issued to the applicant by respondent no.1 has an umbilical link with Annexure A-12 suspension order dated 08.05.2014 passed by respondent no.1 suspending the applicant, which has since been set aside by the Central Govt. vide Annexure A-14 order dated 16.05.2014. A close reading of Annexure A-14 order of the Central Government would clearly indicate that the alleged misconduct of the applicant for which respondent no.1 had issued the Annexure A-12 suspension order was not at all a misconduct and accordingly Annexure A-12 suspension order dated 08.05.2014 was set aside by the Central Government. The Hon'ble Apex Court has defined misconduct in a catena of judgments as an act which is deliberate or wilful with intent to violate or misbehave or disregard any binding rule or code of conduct. In the instant case the applicant has simply obeyed an order of

respondent no.2 which certainly cannot be called as a misconduct. We also hold that the act of the applicant of getting herself self-relieved on 08.05.2014 to take up her new assignment in the Central Government would not amount to desertion either. In this regard, we rely on the definition of this term, as propounded in **State of Rajasthan v. Rawat Singh** (supra).

19. The learned counsel for respondent no.1 had argued that the State Government could not relieve the applicant pursuant to Annexure A-4 order of appointment dated 07.02.2014 issued by DOPT in view of adverse media reportings in view of journalist Shri Vineet, Narain challenging the said appointment in the Hon'ble Apex Court. We find from the records that the Chief Secretary of the State Government for the first time replied to the Central Government on the issue vide AnnexureA-15 letter dated 20.05.2014, i.e., after a prolonged delay of 43 days - respondent no.1 ought to have informed respondent no.2 of their predicament in relieving the applicant for the reasons

later espoused in the Chief Secretary's letter in a reasonable period of time.

20. We are in agreement with the learned counsel for the respondent no.1 that the State Government can take action against an AIS officer of their cadre even when such officer is on central deputation, for any irregularity/misconduct committed by him while being in the service of that State Government and vice-versa. But the applicant, as we have observed earlier, has not committed any misconduct. Obeying a Central Government order cannot be called as misconduct by any stretch of imagination. Instead of finding fault with the applicant for obeying the Annexure A-9 order of the Central Government, the State Government, if they feel that Annexure A-9 order was not a legal order, have liberty to challenge the said order of the Central Government in an appropriate court of law.

21. Rule 6 (1) of IPS (Cadre) Rules, 1954 reads as under:

“6 Deputation of Cadre Officers.--(1) A cadre officer may, with the concurrence of the State Government or the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government or under a company, association or body of individuals, whether incorporated or not which is wholly or substantially owned or controlled by the Central Government or by another State Government:

Provided that in case of any disagreement, the matter shall be decided by the Central Government and the State Government or State Governments concerned shall give effect to the decision of the Central Government.”

This Rule makes it absolutely clear that in the matter of central deputation of an IPS officer, the decision of the Central Government is final.

22. We do not agree with the contention of the learned counsel for respondent no.1 that the instant OA is barred by limitation of time, as prescribed under Section 21 of the Administrative Tribunals Act, 1985. The sequence of events involved would explain the reasons for the delay. Further, since the applicant is posted at Delhi, her filing of this OA at the Principal Bench is fully justified.

23. Taking into account, the discussions in the foregoing paragraphs, we are of the clear opinion that

the applicant has not indulged into any act of misconduct for which any charge-sheet could have been issued to her. The very basis of issuance of Annexure A-12 suspension order and later the impugned Annexure A-16 charge-sheet was alleged misconduct of the applicant in getting herself self-relieved to take up the Central Government assignment. As we have already held that the applicant has not committed any misconduct, Annexure A-16 charge-sheet has to go. When the very foundation is gone, the edifice has to collapse.

24. We, therefore, hold that Annexure A-16 charge-sheet dated 18.06.2014 issued by the State Government (respondent no.1) is illegal and *ab initio* void in the eyes of law. Accordingly, the Annexure A-16 charge-sheet dated 18.06.2014 is quashed and set aside. The OA is allowed.

25. No order as to costs.

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

(Justice M.S.
Member (J)

‘San.’