

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 3200/2015

This the 14th day of September, 2015

**Hon'ble Mr. Justice B.P. Katakay, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member(A)**

Bishan Lal,
Principal (under suspension)
Dr. Rajendra Prasad Govt. Sarodyay Vidhyalaya,
President's Estate, New Delhi,
Aged about 57 years,
S/o Sh. Shibba Singh,
R/o III-A, 298, Vaishali,
Ghaziabad, UP.

.... Applicant

(By Advocate: Mr. Anil Singhal)

Versus

1. Govt. of NCT of Delhi.
Through its Chief Secretary,
Delhi Secretariat,
I P Estate, New Delhi.
2. Lt. Governor of Delhi,
Raj Niwas, Delhi.
3. Director of Education,
Directorate of Education,
Delhi Secretariat,
I P Estate, New Delhi.

.... Respondents

(By Advocate: Mr. Vijay Pandita with Anmol Pandita).

ORDER (ORAL)

By Hon'ble Justice B.P. Katakey, Member (J):

The applicant, who is the Principal of Dr. Rajendra Prasad Govt. Sarodyay Vidhyalaya, President's Estate, New Delhi, presently under suspension, has filed this Original Application (OA) challenging the orders dated 15.04.2015 and 13.07.2015 issued by the Director of Education and Addl. Director of Education (Vig.), respectively.

2. By order dated 15.04.2015, the applicant has been placed under suspension, in exercise of the power conferred by Sub rule (1) of Rule 10 of the CCS (CCA) Rule, 1965 (in short Rules, 1965). By order dated 13.07.2015 the period of suspension of the applicant has been extended for further 180 days w.e.f. 14.07.2015 or till further orders, whichever is earlier, on the basis of Suspension Review Committee conducted by the authority.

3. Learned counsel appearing for the applicant referring to the provisions contained in the Rule 10 of 1965, Rules, as well as the Office Memorandum dated 3.07.2015 issued by the Director (E), Department of Personnel & Training, Ministry of Personnel, Public Grievances and Pensions, Government of India, has submitted that since the applicant has not been served with any charge memo within 90 days from the date of suspension i.e. 15.04.2015, he deserves to be reinstated by revoking the order of suspension as well as the order

passed after review for extension of period of suspension. Learned counsel for the applicant has relied upon the Judgment of the Apex Court in ***Ajay Kumar Choudhary vs. Union of India***: 2015 (2) SCALE 432 in support of his contention.

4. Learned counsel appearing for the respondents, on the other hand, placing certain documents as well as the list of dates on record has submitted that it is not that the respondents authorities are sleeping over the matter but are pursuing vigoursly on day to day basis. It has also been submitted that since the applicant is involved in an FIR lodged, the departmental authority is taking some time to finalize the charge memo to be issued to the applicant, which has not been issued till date.

5. The Rule 10 (1) of 1965 Rules empowers the competent authority to place the Government Servant under suspension. Accordingly, the applicant has been placed under suspension vide order dated 15.04.2015. A review, thereafter, was conducted, whereupon vide order dated 13.07.2015 the period of suspension has been extended for further period of 180 days w.e.f. 14.07.2015 or till further orders, whichever is earlier. It is an admitted position of fact that till date no charge memo has been issued to the applicant, though it appears from the materials placed on records by the respondents that they are pursuing the matter vigoursly and on day to

day basis. The Apex Court in the case of **A. K. Chaudhary** (supra) upon consideration of the provision of Rule 10 (1) of 1965 Rules as well as the provisions of Section 167 (2) of Cr. P.C,1973 has opined as under:

“14.We, therefore, direct the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extensions of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its officers within our outside the State so as to sever any local or personal contact that he may have and which he may misused 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 recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that 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 hld in abeyance stands superseded in view of the stand adopted by us.”

6. In view of the aforesaid discussion and since no charge-sheet has been issued within 90 days of the placing the applicant under suspensions, we direct the respondents to reinstate the applicant in service by re-invoking the order of suspension. It is, however, open to the respondent authority to transfer the applicant to any other

place in case the respondents are of the opinion that his continuance in the aforesaid school may hamper the disciplinary proceedings to be initiated by issuing a charge-memo.

7. The OA is accordingly allowed. No cost.

(K.N. Shrivastava)
Member (A)

(Justice B.P. Katakey)
Member (J)

Bhupen/