

**Central Administrative Tribunal
Principal Bench**

OA No.3723/2018

New Delhi, this the 15th day of November, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Dr. Pankaj Kumar Pandey, Group 'A'
Age about 43 years, I.A.S.
S/o Lt. Sh. Balbhadr Pandey
R/o 18 Kalidas Road, Dehradun.Applicant

(By Advocates: Ms. Ruchira Gupta and Ms. Mona Sinha Rajaram)

Versus

1. Union of India through Secretary
Department of Personnel & Training
New Delhi.
2. State of Uttarakhand
Through Additional Chief Secretary(Personnel)
State of Uttarakhand
Dehradun.Respondents

(By Advocates: Shri Hanu Bhaskar and Ms. Vanshaja Shukla)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant is an IAS officer of Uttarakhand cadre. One of the assignments given to him was to act as an Arbitrator under the provisions of National Highway Act, 1956. Alleging that the applicant passed awards indiscriminately granting benefits in respect of

Government lands, the State Government initiated disciplinary proceedings against him. Through an order dated 11.09.2018, the State Government placed him under suspension, in contemplation of disciplinary proceedings duly obtaining the approval of the Governor. The said order is challenged in this OA.

2. The applicant contends that he has been discharging statutory duties as an Arbitrator and the award passed by him is under challenge before various Courts and that there is absolutely no basis for suspending him. It is stated that the procedure prescribed under law and in particular the All India Services (Discipline and Appeal Rules) 1969, was not followed. A contention is also advanced to the effect that the State Government is not competent to initiate disciplinary proceedings since the applicant was discharging the functions under an assignment made by the Central Government.

3. We heard Ms. Ruchira Gupta, learned counsel for the applicant and Shri Hanu Bhaskar & Ms. Vanshaja Shukla, learned counsel for the respondents, at the admission stage in detail.

4. The applicant was placed under suspension pending disciplinary proceedings. The reason mentioned in the impugned order is that he passed awards in favour of various persons as regards the Government land which was utilized for extending National Highway. The truth or otherwise of the allegation needs to be dealt with in the course of departmental inquiry.

5. In the context of suspension of a Member of All India Service, the Rules empower the Central Government as well as the State Government, depending upon the circumstances.

6. In the instant case, the order of suspension was passed by the State Government. According to Second proviso to Rule 3(1)(b)(ii) of the All India Services (Discipline & Appeal) Rules, 1969, if a State Government passes an order of suspension against a Member of an All India Service, it shall not be valid, unless it is confirmed by the Central Government within thirty days from the date the order or a charge sheet is filed within that period.

7. In the instant case, the order of suspension was passed on 11.09.2018 and the charge sheet was issued

on 28.09.2018. Therefore, the necessity for the Central Government to confirm the order of suspension does not exist.

8. It is argued that it is not necessary to continue the applicant under suspension since the charge sheet is filed. We do not agree with this contention, at this stage. If the applicant is of the view that the suspension ordered against him need not be continued, once the charge sheet is filed, he has to make a representation and the question needs to be dealt with by the disciplinary authority. Even otherwise, the disciplinary authority is under obligation to apply its mind whether or not to continue the suspension beyond 90 days, once the charge sheet is filed.

9. We, therefore, dispose of the OA directing that the disciplinary authority or the Committee constituted by it, shall examine the question whether the suspension ordered against the applicant needs to be continued beyond 90 days from the date of suspension. The representation, if any, made by the applicant in this behalf, shall also be taken into account and a reasoned order shall be passed.

10. As regards the contention of the applicant that the State Government is not the competent authority, we leave it open to him to make a representation to the concerned authority in the Central Government.

11. There shall be no order as to costs.

(Pradeep Kumar)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/