

**Central Administrative Tribunal
Principal Bench**

CP No.632/2018 in OA No.2405/2017

New Delhi, this the 22nd day of October, 2018

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

Anand Joshi
S/o Shri Arjun Lal Joshi
Age 51 years, Under Secretary(Group 'A')
Department of Consumer Affairs
Ministry of Consumer Affairs, Food and Public
Distribution, Room No.466-A, Krishi Bhavan
New Delhi-110001

Resident of:
401, Media Times Apartments
Abhay Khand 4, Indirapuram
Ghaziabad-201010
Uttar Pradesh.

...Petitioner

(By Advocate: Shri Prateek Tushar Mohanty)

Versus

1. Rajiv Gauba, Home Secretary
Ministry of Home Affairs
North Block, New Delhi-110001.
2. B.P. Sharma, Secretary
Department of Personnel and Training
Ministry of Personnel, Pensions and Public
Grievances, North Block, New Delhi-110001.

..Respondents

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant is an Under Secretary in the Home Ministry. He was arrested on 15.05.2016 with reference to a criminal case and since the arrest exceeded 48 hours, the respondents passed an order dated 19.05.2016 placing him under suspension. Thereafter, the suspension was extended thrice through orders dated 12.08.2016, 08.02.2017 and 07.08.2017. The applicant filed OA No.2405/2017 feeling aggrieved by suspension, as extended from time to time. Reliance was placed upon the judgment of the Supreme Court in ***Ajay Kumar Chaudhary v. Union of India through its Secretary & Another*** in Civil Appeal No.1912/2015 arising out of SLP No.31761/2013, wherein it was held that extension of suspension beyond 90 days can be resorted to only in exceptional cases and to the extent possible, the employee shall be reinstated on expiry of 90 days. Following the same, the OA was allowed through order dated 26.09.2017.

2. In compliance of the Order passed by this Tribunal, the respondents reinstated the applicant

through order dated 10.01.2018. This contempt case is filed alleging that the respondents did not comply with the Order of the Tribunal in its true sense, since manner in which the period of suspension shall be treated has not been decided and that the salary for that period was not paid.

3. We heard Shri Prateek Tushar Mohanti, learned counsel for the applicant in detail and perused the record.

4. It is a matter of record that the applicant has been placed under suspension through order dated 19.05.2016 and the suspension was extended through orders dated 12.08.2016, 08.02.2017 and 07.08.2017. This Tribunal was satisfied that the ratio of the judgment of the Supreme Court in Ajay Kumar Chaudhary's case gets attracted to the case of the applicant and accordingly allowed the OA filed by him.

5. The ratio of the judgment of the Supreme Court was that the period of suspension cannot be extended beyond 90 days unless extraordinary circumstances exist. It is not at all a precedent for the proposition that the suspension cannot be ordered at all. Therefore, it

was not a case for setting aside the order of suspension as such. Exception was taken only to the extension of suspension beyond certain point. In the operative portion of the order, it was observed as under:-

"3. In view of the dictum of the aforesaid judgment, the O.A. is allowed. The impugned order dated 19.05.2016 as also the orders dated 12.08.2016, 08.02.2017 and 07.08.2017 granting extensions to the applicant are hereby quashed. As a consequence of the quashment of the impugned orders, it is directed, the applicant shall be reinstated in service within four weeks from the date of receipt of a copy of this order. Needless to say the period of suspension shall be decided in accordance with F.R. 54-B."

6. We are of the view that reference to the order of suspension was in the context of extension but not independently, nor it could have been set aside as a whole since the ratio of the judgment in Ajay Kumar Chaudhary's case was not to that extent.

7. The respondents have reinstated the applicant and there is no dispute about it. What needs to be done further is to decide the manner in which the period of suspension shall be treated in accordance with FR 54-B. This provision categorically mentions that the occasion to decide the manner in which the period of suspension

shall be treated would arise only on termination of the proceedings as is evident from sub rule 6 thereof.

8. The learned counsel for the applicant brought to our notice that as of now no charge sheet has been issued by the department and no charge sheet was filed in the criminal case. That is a matter to be verified. Assuming that no disciplinary proceedings are initiated, the respondents have to await the outcome of the criminal case.

9. We do not find any basis to admit the contempt case. Accordingly, it is closed.

(Pradeep Kumar)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/