

**.Central Administrative Tribunal
Principal Bench**

OA No.1672/2018

New Delhi, this the 21st day of August, 2018

Hon'ble Mr. K.N. Shrivastava, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Pranabananda Bala,
DOB : 04.04.1965, Age 53 years,
S/o Late Paresh Bath Bala,
R/o Durga Nagar (South),
Rabindranagar, Kolkata-65,
Working as Inspector (Examiner),
(Under Suspension)
Office of the Pr. Commissioner of Customs,
Airport & Administration, Custom House,
15/1 Strand Road,
Kolkata-700001.

...Applicant

(By Advocate : Shri Bhaskar Mishra)

Versus

1. Union of India,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi-110001
(Through: the Secretary)
2. The Chairman,
Central Board of Excise & Customs,
North Block,
New Delhi-110001.
3. The Chief Commissioner of Customs,
(East Zone) Appellate Authority Office
Of the Chief Commissioner Customs,
15/1, Strand Road, Custom House,
Kolkata-700001.
4. Office of the Principal Commissioner of Customs
(Admn.) & Airport) 15/1,
Strand Road, Custom House,
Kolkata-700001.

...Respondents

(By Advocate : Shri Rajeev Kumar)

ORDER (ORAL)**Mr. K.N. Shrivastava, Member (A) :-**

The applicant was working as Inspector (Examiner) in the Customs Department, at the relevant point of time and was posted at Kolkata. A raid was conducted by Directorate of Revenue Intelligence (DRI) at his office on 05.06.2017. He was subsequently transferred and posted as Examiner Legal, Airport and Administration, Kolkata.

2. At the behest of DRI, he was placed under suspension vide impugned Annexure-A/1 order dated 11.07.2017 by Commissioner of Customs (Administration & Airport), Custom House, Kolkata. His suspension has been extended from time to time. However, no memorandum of charges has been issued so far.

3. Shri Bhaskar Mishra, learned counsel for applicant submits that the continuous suspension of the applicant without issuance of any memorandum of charges to him, is illegal and deserves to be quashed and set aside, in view of the law laid down by the Hon'ble Supreme Court in ***Ajay Kumar Chaudhary Vs. Union of India through its Secretary & Anr. 2015 (7) SCC 291.***

4. Shri Rajeev Kumar, learned counsel for respondents fairly submits that no memorandum of charges has been issued to the applicant so far. However, he further submits that the suspension

has been reviewed from time to time and the competent authority has decided to continue the matter of suspension.

5. The Hon'ble Supreme Court in Ajay Kumar (supra) has held as under :-

“14 We, therefore, direct that 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 extension 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 offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse 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 held in abeyance stands superseded in view of the stand adopted by us.”

6. It is not in dispute that the applicant, who was placed under suspension on 11.07.2017, has not been issued any memorandum of charges so far. As a matter of fact, the disciplinary authority was duty bound to issue the memorandum of charges within 90 days of issuance of the suspension order. Hence, we are of the view that the continued suspension of the applicant is illegal.

7. In the conspectus, we dispose of this OA in the following terms:-

(a) The suspension of the applicant shall be revoked by the disciplinary authority forthwith.

(b) The respondents shall have the liberty to issue memorandum of charges and conduct the disciplinary proceedings against the applicant, if they so desire.

(c) The respondents shall pass appropriate orders under FR 54(B), in regard to the suspension period within 8 weeks.

8. There shall be no orders as to costs.

(S.N. Terdal)
Member (J)

(K.N. Shrivastava)
Member (A)

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