

**Central Administrative Tribunal
Madras Bench**

MA/310/00113/18 (in)(&) OA/310/01006/2017

Dated 6th December Two Thousand Eighteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

M.Muthukumar,
No.G6, Bharathi Apartments,
5th Street, Subramaniyapuram,
Karaikudi 630 002. .. Applicant
By Advocate **M/s.S.Arun**

Vs.

1. Union of India, rep by
Chief Postmaster General,
O/o the Chief Postmaster General,
Chennai 600 002.
2. The Director of Postal Services,
O/o the Postmaster General,
Southern Region,
Madurai 625 002.
3. The Superintendent of Post Offices,
Karaikudi Division,
Karaikudi 630 003. .. Respondents

By Advocate **Mr.C.Kulanthaivel**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The applicant has filed this OA seeking the following relief:-

“to set aside suspension and reviewing orders dated 02.8.2016, 20.10.2016, 03.11.2016, 30.01.2017 and 25.04.2017 issued by the 3rd respondent along with order dated 14.3.2017 issued by the 2nd respondent in Appeal and consequently direct the respondents to revoke his suspension from departmental service besides directing the respondents to grant arrears of pay to him from 09.8.2016 to till the date of actual reinstatement of service along with interest on arrears at the rate of 12% per annum till the date of actual payment and pass such other orders as are necessary to meet the ends of justice.”

2. Applicant is a Postal Assistant, SBCO, Karikudy HO. He was suspended by the respondents as per order dated 10.5.2016 (Annexure A1) under Section 10(1) of CCA (CCA) Rules, 1965 alleging negligence in duty in connection with a fraud committed in the Savings Bank accounts. Immediately he gave a representation to the third and second respondents on 01.6.2016 and 22.6.16 seeking revocation of the suspension (Annexure A2&A3). On 02.8.16 the respondents had extended suspension beyond 90 days till 06.11.16 without any justification. The order is produced as Annexure A4. Again the applicant filed a representation. There was no response. The applicant filed an appeal to the 2nd respondent for getting his suspension revoked (Annexure A6). In the meanwhile, the 3rd respondent had passed another extension order dated 20.10.2016. The respondent has not revised the subsistence allowances also (Annexure A7). Then applicant again filed appeal

against Annexure A7 order also (Annexure A8). The suspension was extended on 03.11.16, 30.1.17 by the 3rd respondent. On an appeal to 2nd respondent against extension, the 2nd respondent has rejected the appeal on 14.3.17 stating that CBI investigation is going on (Annexure A12). Again the respondents had extended the period of suspension on 25.4.17. According to the applicant, till date no charge memo is given to him nor any charge sheet filed against him by the CBI for any criminal offence. The orders of extension of suspension is not sustainable and it is against the law laid down by the Hon'ble Supreme Court in *Ajay Kumar Chaudhary vs. Union of India reported in CDJ 2015 SC 129*. So the extension of suspension beyond the period of 90 days is bad in law. It is also against the OM issued by DoPT F.No.11012/04/16-Estt.(A) dated 23.8.16 (Annexure A15).

3. The respondent had filed a reply in the following lines. The suspension of the applicant w.e.f. 10.5.16 and various extensions of the suspension is admitted in the reply. According to respondents a case of alleged fraud of government money by officials of Karaikudi HO was revealed and that an amount of Rs.93,59,366/- was swindled from Karaikudi HO and AE College HPO. It was revealed that the applicant failed to check the discrepancies in withdrawal voucher and caused the loss to occur. It is because of the negligence of the applicant, department had suffered loss. Accordingly, a charge memo was issued to the applicant on 24.8.17 after filing of this OA. The applicant was and alleged accused in this crime registered. According to the respondents, there is no appeal for withdrawing suspension. Applicant could have filed an appeal against the suspension order passed, which he

had not done. The CBI investigation is continuing. So suspension of the applicant is absolutely necessary. The respondents had produced the suspension order, charge memo dated 24.8.17, copy of appointment of enquiry officer, appointment of presenting officer, order of extension of suspension dated 23.4.18 etc. as Annexure R1 to R6.

4. We have heard the counsels appearing on both sides and perused the pleadings. The point for consideration is whether the continuing suspension of the applicant is legal or not. The applicant mainly relies on the decision of the Hon'ble Apex Court in *Ajay Kumar Chaudhary v. Union of India* referred supra and the OM issued by the DoPT F.No.11012/04/2016-Estt.(A) dated 23.8.16 issued in compliance with the Supreme Court judgment in Ajay Kumar's case. The DoPT categorically states as follows:-

"In compliance of the above judgment, it has been decided that where a Government servant is placed under suspension, the order of suspension should not extend beyond three months, if within this period the charge-sheet is not served to the charged officer. As such, it should be ensured that the charge sheet is issued before expiry of 90 days from the date of suspension. As the suspension will lapse in case this time line is not adhered to, a close watch needs to be kept at all levels to ensure that charge sheets are issued in time."

5. The Hon'ble Apex Court has held in *Ajay Kumar's case* in para 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 is not served on the delinquent officer/employee."

6. In view of the law laid down by the Apex Court, there is no justification in continuing with the suspension of the applicant anymore. The charge memo issued

was only after filing this OA. It is clear that the respondents had failed to properly review the suspension in the light of the OM issued by the DoPT dated 23.8.2016.

7. Hence, we hereby set aside the order of extension of suspension passed by the 3rd respondent from the date of this order. It is needless to say that it is within the powers of the authority whether the applicant has to be transferred to some other place if they find it necessary to avoid any influencing of witness etc. which may affect the smooth completion of the proceedings. The applicant will be reinstated with immediate effect.

8. OA is disposed of accordingly. Consequently MA 113/2018 stands closed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

06.12.2018

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