

**Central Administrative Tribunal
Madras Bench**

OA/310/01277/2016

Dated 14th 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)**

Shri M.Senthil Kumar,
S/o V.Mariappan,
Plot No.27, Gokulam Colony,
Maruthi Nagar, No.1 Toll gate,
Trichy 621216. .. Applicant
By Advocate **M/s.B.Vijay**

Vs.

Union of India, rep by
The Commissioner,
Disciplinary Authority,
O/o Commissioner of Customs,
No.1, Williams Road,
Tiruchirappalli 620001. .. Respondent
By Adovacte **Mrs.Hemamuralikrishnan**

ORDER

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

This is an OA filed seeking the following relief:-

“A. to call for the records of the respondent pertaining to order dated 27.6.2016 made in C.No.II/39/05/2015 VIG(PF-1) passed by the respondent and quash the same as illegal, arbitrary and non est in law and consequently;

B. to direct the respondent to reinstate the petitioner into service within the time stipulated by this Tribunal and grant all other service monetary benefits for the period spent during suspension.

C. To award cost and pass such further order and other orders as may be deemed fit and proper and thus render justice.”

2. The applicant was working as Inspector, Customs Seized Goods Godown, Customs Division, Trichy. On 18.4.15 the respondent who is the disciplinary authority had suspended him as per A2 order under Rule 10(1) of CCS (CCA) Rules, 1965. The respondent had suspended him and one Mr.Mohamed Farook, Superintendent of Seized Goods Godown, alleging that there had occurred tampering of the seized and deposited gold in the godown. As per complaint of the respondent, the CBI had registered a crime (Annexure A3) and investigation had started.

3. So far the respondent has not given any charge memo to him even though a disciplinary proceedings is contemplated. The suspension was extended again after 90 days on 15.7.15 (Annexure A5). The disciplinary authority without properly considering the merits had extended the suspension on 07.10.15 (Annexure A6) on

01.2.16 (Annexure A8) and again extended the suspension order in a mechanical manner on 11.1.16 (Annexure A9). The respondent again extended order on 01.4.16 and on 27.6.16. According to the applicant, he had willingly co-operated with polygraph tests, brain mapping tests sought by the CBI. Even now no charge memo is given to him. According to the applicant the extension of suspension beyond 90 days is arbitrary and illegal. According to the applicant, he had filed representations to lift the order of suspension as Annexure A5, A7 and A9 and they were rejected without any valid reason.

4. The respondent filed a reply admitting the suspension. According to the respondent, one set of key was with the Superintendent and the other set of keys was in possession of the applicant herein. Strong room can be opened only with these two sets of key. The CBI investigation is still continuing and the Review Committee had extended the suspension of the applicant. Respondent completely denies any mechanical extension of suspension.

5. We have heard the counsels appearing on both sides and perused the pleadings. The applicant was suspended on 18.4.15 and thereafter the Review Committee constituted has extended the suspension order beyond 90 days and more than 2 years is over by now since suspension is imposed. From the pleadings, it can be seen that the applicant had co-operated with the CBI investigation and all sorts of scientific tests were conducted on the applicant in the course of investigation. The only reason given for extension of suspension is the non-completion of the CBI investigation. This clearly shows that the Review Committee had not considered whether the

continued suspension is necessary beyond 90 days. The counsel for the applicant had invited the attention of the Tribunal to the Hon'ble Apex Court decision in *Ajay Kumar Chaudhary v. Union of India through its Secretary (Civil Appeal No.1912 of 2015) reported in (2015) 7 SCC 291*. The Apex Court had held that the period of suspension should not extend beyond 3 months (90 days) if the memorandum of charges is not filed within this time. The nodal department DOPT had issued an official Memorandum F.No.11012/04/2016-Estt.(A) dated 23.8.16 in compliance with the directions of the Hon'ble Supreme Court and directed the departments not to extend the period of suspension beyond 90 days without issuing the charge memo.

6. In view of the law laid down by the Hon'ble Apex Court (cited supra) and the instructions issued by the Government of India DOPT, it can be seen that the extension of the suspension order in a mechanical manner has to be held as arbitrary and against the law of the land. We are of the opinion that the continuance of suspension any further is not in accordance with the law laid down by Apex Court. The suspension of the applicant will be vacated forthwith by the respondent from the date of this order. The respondents will reinstate the applicant in a suitable post without any delay.

7. The OA is disposed of accordingly with costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

14.12.2018

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