

**Central Administrative Tribunal
Principal Bench**

**OA No.1524/2019
MA No.1865/2019**

New Delhi, this the 19th day of August, 2019

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

Veerabhadram Vislavath,
Aged about 41 years,
Designation : Deputy Commissioner of Income Tax (TDS)
1(3),
Mumbai
Group : A,
Department – Department of Revenue,
R/o E-37, 6th Floor, darbhanga house,
Income tax colony, peddar road,
Mumbai 400020.

...Applicant

(By Advocate : Shri Ajesh Luthra)

Versus

1. Union of India & Ors.,
Through the Secretary,
Ministry of Finance,
North Bloc, New Delhi-110001.
2. The Chairman,
Central Board of Direct Taxes,
North Block, New Delhi-110001.
3. Principal Chief Commissioner,
Income Tax, 3rd Floor, Aayakar Bhavan,
M.K. Road, Mumbai-400020.

...Respondents

(By Advocate : Shri Subhash Gosain)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant is an officer of Indian Revenue Service, of 2011 batch. He filed this OA, feeling aggrieved by an order dated 14.09.2018, through which he was placed under deemed suspension. Subsequently, it was extended through an order dated 04.12.2018, 01.03.2019 and 02.06.2019.

2. The applicant furnished the particulars of his service and the accomplishments, which are said to have taken place during his tenure, at different places. It is stated that the relationship between the applicant and his wife was strained in the recent past and that led to submission of complaints by his wife against him. In relation to one of the complaints, an FIR was registered and he was detained in the custody on 05.09.2018. Since he was in the custody for a period exceeding 48 hours, the appointing authority passed an order dated 14.09.2018, directing that the applicant is deemed to have been under suspension with effect from the date of detention i.e. 05.09.2018.

3. Initially, the Review Committee met twice in intervals of 90 days each, and extended the order of suspension, as provided for under Rule 10(6) of the CCS (CCA) Rules, 1965 (for short, the Rules). This was followed by an extension of the suspension, for a further period of 180 days.

4. The applicant contends that his detention was totally unconnected with discharge of his duties and whatever may have been the circumstances, under which, the order dated 14.09.2018 was passed, there was no basis for extension of the same on subsequent occasions.

5. Respondents filed a counter affidavit opposing the OA. It is stated that initial suspension of the applicant was by operation of law, and it was being extended on the basis of the recommendation of the Review Committee. It is also stated that allegations made against the applicant in the criminal case are serious in nature, and in that view of the matter, the suspension is being extended from time to time.

6. We heard Shri Ajesh Luthra, learned counsel for applicant and Shri Subhash Gosain, learned counsel for respondents.

7. The OA is filed against the order of suspension dated 14.09.2018 as extended from time to time. Rule 10 of the Rules confers power upon the appointing authority, to place a Central Govt. employee under suspension. Generally, it is in contemplation of disciplinary proceedings. Sub-Rule 2 thereof, provides for deemed suspension, in case an employee has been in custody on a criminal charges or otherwise; for a period; exceeding 48 hours. The suspension of the applicant herein, was on account of his having been detained in the custody.

8. In matters of this nature also, there are two categories. The first is where the detention is in connection with the case, referable to the conduct, referable to the discharge of duties of the employees. These include registration of case on account of possession of dis-proportionate assets or as a result of a trap, laid by the CBI. The second category is where the detention of the employee is totally unconnected

with the discharge of his duties. The case in hand falls into this category.

9. There may exist substantial justification not only for passing the initial orders of suspension but also for the subsequent extensions, in the cases where it is in contemplation, or during the pendency of the disciplinary proceedings, or where the detention of the employee is in relation to his acts and omissions in the discharge of his duties. A different approach is needed where the suspension is on account of the detention of the employee, with reference to a case, unconnected with the discharge of his official functions. Though initial submission would be perfectly valid, the Review Committee in such cases, is required to address certain issues.

10. An employee who is placed under suspension is paid Subsistence Allowance and with the passage of time, a quantum thereof increases. The payment of such a huge amount from the public exchequer without extracting any work; was in fact addressed by the Government itself. In OM dated 07.01.2004, the circumstances which are required to be taken into account by the Review Committee are mentioned. One

such, to be kept in mind by the Review Committee is stated as under:-

“3. The Review Committee(s) may take a view regarding revocation/continuation of the suspension keeping In view the facts and circumstances of the case and also taking into account that unduly long suspension, while putting the employee concerned to undue hardship, involve payment of subsistence allowance without the employee performing any useful service to the Government. Without prejudice to the foregoing, if the officer has been under suspension for one year without any charges being filed in a court of law or no charge-memo has been issued in a departmental enquiry, he shall ordinarily be reinstated in service without prejudice to the case against him. However, in case the officer is in Police/judicial custody or is accused of a serious crime or a matter involving national security, the Review Committee may recommend the continuation of the suspension of the official concerned.”

11. The Review Committee is required to assess the inconvenience which department may suffer on account of continued suspension of the employee even while paying a considerable Subsistence Allowance without extracting work on the one hand, and the continued suspension on the other. Where reinstatement is not going to result in change of circumstances from the point of view of the

department and for that matter the criminal case also, reinstatement must be a preferred option.

12. We have perused the successive orders of the extension of suspension. Except making a reference to the recommendation of the Review Committee and extending the order of suspension, nothing whatsoever was mentioned. The interest of the department can also be protected in case the reinstatement does not result in any detriment.

13. We, therefore, dispose of the OA, directing that in its next meeting, the Review Committee shall take into account, the fact that the detention of the applicant was totally unrelated to discharge of his official functions and the continued suspension would only entail in payment of huge amount of Subsistence Allowance, without extracting the work from the applicant.

Pending MAs, if any, stand disposed of.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)
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(Justice L. Narasimha Reddy)
Chairman