

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C.) No. 3528/2008**

% **Date of Decision: 16.11.2009**

Union of India Petitioners

Through: Mr.H.K.Gangwani, Advocate.

Versus

Sh.Gabdulal Meena Respondent

Through: Mr.Sant Lal, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE VIPIN SANGHI

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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The petitioner have impugned the order dated 17th September, 2007 passed in OA No. 2359/2006, Sh. Gabdulal Meena Versus Union of India and Others directing the petitioner to reinstate the respondents from the original date of his suspension 27th July, 2004 and to grant him all the consequential benefits as his suspension was not reviewed within ninety days. The petitioner has challenged the order contending that the suspension order was valid for ninety days and therefore the respondent could not be reinstated and consequential benefit granted during the period the suspension of the respondent was valid.

The Tribunal had held that since the petitioner was placed on suspension w.e.f. 27.7.2004 and the order of suspension was reviewed on 23.12.2004 and the decision to continue suspension was not taken within 90 days, the suspension from the 27th July, 2004 became invalid.

The learned counsel for the petitioner relies on rule 10(7) of CCS (CCA) Rules contemplating that an order of suspension made under sub-rule 1 or 2 of Rule 10 is not valid after a period of 90 days unless it is extended after review for the further period before the expiry of 90 days but that does not invalidate the order of suspension for ninety days.

The learned counsel for the respondent in the circumstances also admits that the suspension of the respondent was valid for ninety days from 27th July, 2004 and the suspension became invalid after ninety days as the suspension order was not reviewed within ninety days for further suspension of the respondent. This has also been not disputed by the learned counsel for the respondent after the inquiry, the punishment of dismissal from service was imposed upon the respondent and he is no more in service.

In these circumstances the finding of the tribunal that the suspension became invalid from 27th July, 2004 cannot be sustained. The suspension of the respondent became invalid after ninety days from 27th July, 2004 as within ninety days it was not reviewed for further period.

In the circumstances, it is held that the suspension of the respondent for ninety days from 27.7.1997 was valid and the respondent shall be entitled for consequential benefits, if any, in accordance with the order passed against the respondent after inquiry. The order of the Tribunal dated 17th September, 2007 is modified to this extent that the suspension of the respondent was valid for ninety days from 27th July, 2004. With these directions, the writ petition is disposed of. Parties are left to bear their own costs.

ANIL KUMAR, J.

NOVEMBER 16, 2009
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VIPIN SANGHI, J.