

**Court No. - 39**

**Case :-** WRIT - A No. - 29741 of 2010

**Petitioner :-** Union Of India And Others

**Respondent :-** Ishwari Narayan Singh

**Counsel for Petitioner :-** Ajay Bhanot, Manoj Kumar Singh

**Counsel for Respondent :-** S.C., Avnish Tripathi

**Hon'ble Saumitra Dayal Singh, J.**

**Hon'ble Shiv Shanker Prasad, J.**

1. Heard learned counsel for the petitioner. None present for the respondent.
2. The writ petition is 13 years old. Perusal of the records reveals that at the relevant time the private respondent was working on the post of Sub Post Master, Teliabagh Post Office, West Division, Varanasi. Arising from complaints of misappropriation of sale proceed of National Saving Certificates/Kisan Vikas Patra a divisional level enquiry came to be instituted against the respondent for embezzlement of Rs.2,70,41,000/-. That was completed on 28.01.2005. Prima facie the fact allegations were found to be true. In face of such allegations, the respondent came to be suspended under Rule 10(1) of CCS (CCA) Rules, 1965 (hereinafter referred to as 'the Rules'), on 21.12.2004.
3. That suspension was reviewed from time to time. It was extended. Meantime, a charge-sheet also came to be issued to the respondent under Rule 14 of the Rules on 13.08.2005. Also it is an undisputed fact that arising from the above noted transaction a F.I.R. was lodged against the respondent on 04.03.2005 under Section 120 I.P.C. read with Section 409 I.P.C. as also under the Prevention of Corruption Act, 1988, with the Central Bureau of Investigation. Consequentially, the respondent was arrested on 06.04.2005. He was first released on 06.07.2005.
4. Challenging the suspension order dated 21.12.2004, the respondent filed Original Application No. 1561 of 2005 (Ishwari Narayan Singh Vs. Union of India and 2 Ors.) before the Central Administrative Tribunal, Allahabad Bench, Allahabad. The same was allowed vide order dated 06.03.2009. The suspension order dated 21.12.2004 and the appellate order dated 09.09.2005 were quashed. Further direction was issued to expedite the pending departmental/C.B.I. Enquiry.
5. The Union of India assailed the order of the Tribunal before this Court by means of Writ Petition No. 32682 of 2009 (Union of India and Ors. Vs. Ishwari Narain Singh). The writ petition was allowed vide order dated 18.12.2009. The coordinate bench clearly ruled that the respondent continued under suspension, without break. As to the review of suspension after expiry of 90 days and subsequent review after

expiry of further period/s of 90 days and specific to the objection raised by the respondent that the action of the Review Committee dated 05.09.2005 was time barred, it having been made after 90 days from the last review, the coordinate bench noted that the finding of the Tribunal was erroneous inasmuch as the proviso to Rule 10(7) of the Rules clearly contemplated that in the event of arrest of the suspended employee, the period of 90 days to review the suspension would begin from the date of his release from police custody or from the date of his release being intimated to the appointing authority, whichever is later.

6. Giving full play to that Rule, the coordinate bench further noted that the respondent was released on 06.07.2005, whereas the Review Committee reviewed and confirmed the suspension at its meeting dated 05.09.2005 which date fell within the period of 90 days from the date of his release.

7. Consequentially, the writ petition filed by the Union of India was allowed on the following terms:-

*"In the result, the writ petition is partly allowed. The order of the Tribunal dated 6.3.2009 insofar as it quashes the order dated 9.9.2005, passed by the Director, Postal Services, Allahabad informing the respondent that his suspension has been continuing, is set aside. The respondent is at liberty to represent to the competent authority with regard to his continuance under suspension and different periods of suspension which may be considered by the competent authority in accordance with law."*

8. Once the writ petition had been thus allowed, we do not find any non-compliance of the order dated 06.03.2009 passed by the Tribunal may have ever been alleged. In any case whatever may have been the dispute and differences between the parties as to the perception of compliance of the order dated 18.12.2009 passed by coordinate bench of this Court in Writ Petition No.32682 of 2009, there never arose any event of willful non-compliance of the order of the Tribunal that had already been set aside.

9. Writ petition is **allowed**. The contempt proceeding pending before the Tribunal in Contempt Petition No. 87 of 2009 (Ishwari Narayan Singh Vs. Sri S.M. Jama) is quashed.

**Order Date :-** 12.12.2023  
Abhishek Singh

(S. S. Prasad, J.)      (S. D. Singh, J.)