

Court No. - 1

Case :- WRIT - A No. - 8334 of 2022

Petitioner :- Union Of India Thru. The Secy. To Comptroller And Auditor General Of India And 2 Others

Respondent :- Ramesh Prasad Chaurasiya And Another

Counsel for Petitioner :- Dipak Seth

Counsel for Respondent :- In Person, Saroj Kumar Verma, Sudhanshu Srivastava

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Om Prakash Shukla, J.

1. Case called out.
2. None appears for Union of India, whereas Shri Ramesh Prasad Chaurasiya-opposite party no.1 (employee) is present in person.
3. The following order was passed by this Court when the case was listed on 12.09.2023.

"1. Case called out.

2. None appears on behalf of the petitioners-Union of India. However, Ramesh Prasad Chaurasiya-opposite party no.1 (employee) is present in person.

3. It is submitted by the opposite party no.1, who appears in person, that on account of the interim order passed by this Court on 12.12.2022 staying the operation of the impugned judgment and order dated 06.07.2022 passed by the Central Administrative Tribunal in favour of the opposite party, the implementation of the judgment and order passed by the Tribunal is held up.

4. Looking to the urgency in the matter, let the matter be listed in the week commencing 18.09.2023.

5. It is expected that the learned counsel for the petitioners shall ensure his presence on the next date, failing which the matter shall be heard on merit."

4. The respondent no.1 feeling aggrieved by the order of suspension, had approached the Central Administrative Tribunal through O.A. No.332/00070/2020 which on the exchange of pleadings was finally allowed by the Tribunal vide judgment/order dated 06.07.2022. The judgment/order passed by the Tribunal on being assailed in the present writ petition was initially stayed on 12.12.2022.

5. At this stage, the respondent no.1 is continuing under suspension for the last about more than five years. Criminal proceedings as well as departmental proceedings initiated against him are pending. As a matter of fact, in the proceedings initiated before the Central Administrative Tribunal, Lucknow Bench, Lucknow through O.A. No.332/00070/2020, the Tribunal has stayed the departmental enquiry on the ground that the witnesses in the criminal proceedings and in the departmental proceedings are the same. The order passed is operative. The criminal case at present is proceeding at the stage of evidence. The question as to the continued suspension of the respondent no.1 assailed in the aforementioned OA was also considered and dealt with by the Tribunal on merit in the judgment impugned herein by the Union of India.

6. Learned Tribunal on an empirical consideration of the order of suspension and by going into the last recommendation of the Review Committee has opined that the continuance of the respondent no.1 under suspension serves no purpose and would not affect the interest of the department on any cardinal principle as is relevant to be considered by a court of law in the matter of suspension. The cardinal principle had been referred to in paragraph 14 of the judgment impugned herein. The Tribunal has further opined that the latest order extending

the suspension of the applicant pursuant to the recommendation of the Review Committee was unwarranted, thus the same has been set aside.

7. On a due consideration of the judgment rendered by the learned Tribunal, we find that the same does not suffer from any illegality calling for an interference under Article 226 of the Constitution of India.

8. The writ petition for what has been recorded as above, is accordingly **rejected**.

9. We leave it open to the Union of India to make an application for consideration of any submission left untouched by this order, however, the order/judgment passed by the Tribunal may be complied with subject to any such liberty or remedy open.

Order Date :- 5.12.2023

akhilesh/