

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 35 of 2023

Md. Shah Daud Khan

.....*Petitioner/s*

- Versus -

State of Manipur

.... *Respondent/s*

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order (Oral)

02.08.2024

[1] Heard Mr. N. Mahendra, learned counsel for the petitioner and Mr. Shyam Sharma, learned G.A. for the State respondent.

[2] The petitioner, who is working as Circle Mandal (SK in-charge) in the Office of the SDC, Lilong, was suspended vide order dated 23.01.2021 under Rule 10 of Sub-Rule (1) of the CCS (CCA) Rules, 1965 in contemplation of a departmental proceeding.

[3] It is the case of the petitioner that no departmental proceeding as proposed has been initiated against the petitioner till date and the suspension period has not been reviewed nor extended in terms of Sub-Rule (6) of Rule 10 of the CCS (CCA) Rules, 1965 and the same is liable to be set aside.

[4] Mr. N. Mahendra, learned counsel for the petitioner, relies on the decision of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India (UOI) & Anr.** reported as **(2015) 7 SCC 291** where in para 13 & 14 it was held that suspension of an employee in violation of Rule 10 of CCS (CCA) Rule is not justified even if the case was pending against an employee. Reliance was also placed in the case of **Union of India (UOI) & Ors. vs. Dipak Mali** reported as **(2010) 2 SCC 222** in para 11 it was held that the suspension order in violation of Sub-Rule (6) of Rule 10 of the CCS (CCA) is invalid and the period of suspension has to be reviewed before the expiry of the period of suspension.

[5] Mr. Shyam Sharma, learned G.A. for the State respondent, submits that referring to the counter affidavit 3 (three) FIR cases, i.e. being Nos. (i) 33(04)2021 TBL-PS U/S 409/420/120-IPC, (ii) 34(05)2022 LIL-PS U/S 465/466/468/43/IPC added 420/409 IPC and (iii) 97(05)2022 LPS U/S 465/466/468/471/420/120-B IPC, are pending before the petitioner.

[6] The initial period of extension was extended vide order dated 12.11.2023 for another period of 180 days with effect from 12.11.2023. It is submitted that the subsequent extension order has not been challenged and the petitioner cannot get the benefit of technicalities of Rule 10 in view of the pendency of the multiple FIRs for his alleged involvement.

[7] Mr. Shyam Sharma, learned G.A. for the State respondent, also refers to a decision of the Hon'ble Supreme court reported as **(1997) 4 SCC 1** to the effect that in case of serious offence the suspension for a period of 10 (ten) years is also permissible.

[8] This Court has considered the submissions made at the bar, perused the materials on record and the relevant statutes and the law in this regard.

[9] On perusal of the order dated 23.01.2021, it is seen that the suspension of the petitioner is in contemplation of the disciplinary proceeding in connection with manipulation of land record along with NH-02 extension project. There is no material on record for extension of the suspension order dated 23.01.2021 before the expiry of 90 days as contemplated under Sub-Rule (6) of Rule 10 of CCS (CCA) Rules, 1965.

[10] In the counter affidavit filed by the State respondent at Annexure – R/1, the order dated 12.11.2023 wherein the original suspension order dated 23.01.2021 was further extended for another period of 180 days with effect from 12.11.2023. It is not on record that anything regarding the extension of the initial suspension order dated 23.10.2021 after 24.01.2021 and also 180 days after second extension expires on 11.05.2024. It is in contravention of Sub-Rule (6) of Rule 10 that extension or review of the period of suspension should be before the expiry of the period of suspension.

[11] In the present case, the first extension order was after two and half years of the earlier extension order and there is no extension of the second order.

[12] This Court is of the view that the extension orders are not done as stipulated in Sub-Rule (6) of Rule 10 and hence, are invalid in terms of Sub-Rule (7) of Rule 10 of the CCS (CCA) Pension Rules. Accordingly, the suspension order dated 23.01.2021 of the petitioner is set aside and the petitioner be re-instated in his service with immediate effect along with due salary and allowances, if any. However, it is made clear that this Court does not express any opinion on merit on the pending of the FIR cases against the petitioner and the State respondent may pursue the same as per law.

[13] With these observations and directions, writ petition is allowed.

[14] Furnish a copy of this order to the learned counsel appearing for all the parties.

JUDGE

Kh. Joshua Maring

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Digitally signed by
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