

IN THE HIGH COURT OF MANIPUR AT IMPHAL

WP(C)No.437 of 2023

Ningthoujam Marjit Singh, aged about 48 years, S/o N. Mangi Singh, resident of Thanga Salam Leikai, PO & PS Moirang, Bishnupur District, Manipur.

.....Petitioner

– Versus –

1. The State of Manipur represented by the Additional Chief Secretary/Principal Secretary/Commissioner/ Secretary(RD & PR), Government of Manipur, office at New Secretariat, Babupara PO & PS Imphal, Imphal West District, Manipur-795001.
2. The Director, Rural Development and Panchayati Raj, Manipur, office at Porompat DC Complex, PO & PS Porompat, Imphal East District, Manipur-795005.

.... Respondents

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioner	:	Mr. M. Rendy, Adv.
For the Respondents	:	Mr. Shyam Sharma, GA.
Date of reserved.	:	07.12.2023 & 04.04.2024.
Date of Judgement & order:	:	10.04.2024

J U D G E M E N T & O R D E R (C A V)

[1] Heard Mr. M. Rendy, learned counsel appearing for the petitioner and Shyam Sharma, learned GA for the State respondents.

[2] The present writ petition has been filed by the petitioner under Article 226 of the Constitution of India praying inter alia for issuance of a writ in the nature of Certiorari/ Mandamus or any other appropriate direction directing the respondents to quash and set aside the impugned suspension orders dated 24.01.2023 issued by the Director, Rural Development & Panchayati Raj, Manipur; to reinstate the petitioner to his post and to conclude the disciplinary proceeding initiated against him within a stipulated period of time.

[3] The brief facts and circumstances of the case which led to the filing of the present writ petition are that the petitioner was initially appointed as Account Clerk of DRDA, Bishnupur vide order dated 16.05.2000 on Ad hoc basis for a period of six months or till the post is filled up on regular basis. Subsequently, a special DPC was held on 15.11.2000 for regularization of the Staffs of DRDA, Bishnupur and the service of the petitioner was considered. Accordingly, the DC/Executive Director, DRDA, Bishnupur, issued an order dated 20.11.2000 whereby the Ad-hoc service of the petitioner was regularized against a regular vacancy w.e.f. 15.11.2000.

[4] While in service, the DC/ Executive Director, DRDA, Bishnupur issued an order dated 09.09.2016 whereby the petitioner was terminated from service w.e.f. 29.02. 2016 in connection with FIR case No.24(2) 2016 BPR-PS u/s 403/409/468/477-A/34 IPC submitted by the Superintendent of Police, Bishnupur District, Manipur. In the said order dated 09.09.2016, the petitioner was charged for withdrawal of Rs. 12(twelve) lakh without authorization from the State Bank of India, Bishnupur Branch. He was also charged for forging the signature of Executive Director DRDA and Executive Engineer, DRDA Bishnupur who were the joint-operators of the said account, in withdrawing a sum of Rs. 15 Lakhs without authorization. Further, the petitioner was charged for changing the joint-operators of the said account by writing a letter dated 19.10.2015 addressed to the Manager, SBI, Bishnupur by forging the signature of the Executive Director, DRDA, Bishnupur.

[5] The petitioner, being aggrieved by his termination order dated 09.09.2016, filed a writ petition being WP(C)No.74 of 2018 challenging the said termination order and this Court vide its order dated 10.08.2018 disposed of the writ petition being WP(C)No.74 of 2018 with a direction that the termination order dated 09.09.2016 be quashed and set aside coupled with

the direction that the petitioner shall be paid his back wages from the date on which he was terminated from service, giving liberty to the State to proceed afresh against the petitioner.

[6] It is stated in the petition that despite having knowledge of the Court's order dated 10.08.2018 passed in WP(C)No.74 of 2018, the respondents did not comply and having no alternative, the petitioner filed a contempt petition being Cont. Cas(C)No.197 of 2018 for non-compliance of the Court's order dated 10.08.2018 passed in WP(C)No.74 of 2018. During the pendency of the said contempt case, the respondents issued compliance order dated 02.12.2021 whereby the petitioner was reinstated and regularized against the created post of Accountant in DRDA Wing, Directorate of Rural Development & Panchayati Raj Department.

[7] It is further stated in the petition that the Director, Rural Development & Panchayati Raj, Manipur issued suspension order dated 24.01.2023, impugned in the present writ petition and accordingly, the petitioner was kept under suspension from service with immediate effect by invoking Rule 10 of the C.C.S. (Classification, Control & Appeal) Rules, 1965. It is stated the suspension order dated 24.01.2023 has not been reviewed nor

extended after the expiry of 90 days in violation of the mandatory provisions of Rule 10(6) & (7) of CSS(CCA) Rules, 1965. The petitioner submitted a representation dated 02.05.2023 to the Director, RD&PR, Manipur requesting to revoke/quash the suspension order dated 24.01.2023 in terms of Rule 10(7) of CSS(CCA) Rules, 1965. Similar prayer is also made in the present writ petition.

[8] Vide order dated 30.05.2023, this Court issued notice and learned GA sought for 10 days' time to get instruction as to whether the period of suspension was extended or not. However, neither counter affidavit was filed nor any intimation was given about the status of the suspension order. The matter was heard on available record and vide order dated 07.12.2023, learned GA was permitted to submit status report of the FIR within one week and the status report dated 11.12.2023 was duly submitted.

[9] Mr. M. Rendy, learned counsel for the petitioner submits that even after expiry of 90 days from the date of suspension, ie, 24.01.2023, the respondent did not pass any order reviewing the suspension order and extending the same in violation of statutory provisions. Learned counsel draws the attention of this Court to the provisions of Rule 10 sub rule 6 of CSS (CCA) Rules, 1965 stipulating for review of the suspension order to modify or revoke

before the expiry of 90 days. Sub rule 7 invalidates any suspension order after expiry of 90 days unless the same is extended after review by competent authority. It is submitted that in the present case, the suspension order has not been extended after the expiry of the mandatory 90 days and continuation of the suspension order beyond this period is invalid. Reliance is placed on decisions of this Court in (i) order dated 25.07.2016 in WP(C) No. 966 of 2015, etc., (ii) order dated 06.05.2022 in WP(C) No. 132 of 2020 and (iii) order dated 16.09.2022 in WP(C) No. 149 of 2022, whereas suspension order beyond 90 days were quashed as the same were not extended after review. It is also pointed out that the disciplinary proceedings contemplated against the petitioner is also a non-starter and no document has been supplied to the petitioner till date. It is reiterated that the petitioner is now on bail in the FIR. It is prayed that similar relief be granted in the present case by quashing the suspension order dated 24.01.2023 for violation of Rule 10(6) & (7) of CSS(CCA) Rules, 1965.

[10] Per contra, Mr. Shyam Sharma, learned GA has submitted that mere lapse of 90 days will not itself be a ground for quashing the suspension order when the petitioner has been charged of serious allegation of withdrawing large amount of money of the office without any authorization and

by tempering. Learned GA relies on a decision of the Hon'ble Supreme Court in the case of **Allahabad Bank v. Deepak Kumar Bholu: (1997) 4 SCC 1 @ Para 11** where it was held that mere pendency of criminal case for 10 years would not be a ground for reinstatement of an employee of bank who was involved in corruption and misappropriation of money. It is prayed that the writ petition be dismissed being devoid of any merit.

[11] This Court has considered the materials on record, the submissions made at bar and the relevant provisions specially Rule 10 of CSS(CCA) Rules, 1965 with regard to suspension of a government employee.

[12] It is an admitted fact that the suspension order is not extended. In the case in hand the suspension order dated 24.01.20223 was issued in contemplation of a disciplinary proceeding against the petitioner under Rule 10 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 and also in compliance of order dated 10.08.2018 passed by this Court in WP(C) No. 74 of 2018 to proceed afresh against the petitioner. However, even after expiry of 90 days, the suspension order has not been reviewed nor extended. This is in clear violation of the mandatory provisions of Rule 10 sub rules 6 & 7. The proceeding of the disciplinary enquiry has not been initiated till date. The decision of **Allahabad Bank** (supra) as cited by learned GA is

not applicable in the fact of the present case. In that case, the suspension order was issued in view of pending criminal proceeding, whereas in the case in hand, the suspension order was issued in contemplation of a disciplinary proceeding. Pendency of criminal case shall not come as a hindrance against the petitioner in revoking the suspension order.

[13] In the circumstances, the suspension order dated 24.01.2023 is quashed and the petitioner be reinstated to his post of Accountant in the office of respondent No.2 forthwith. It is also directed that the disciplinary proceeding against the petitioner, if any, shall be concluded within a period of 6 months from the date of receipt of a copy of this order, failing which such proceeding shall be treated as closed. No cost.

[14] Send a copy of this order to the respondent No.2 [Director, RD&PR, Manipur] for information and necessary compliance.

JUDGE

FR/NFR
John Kom