

**HIGH COURT OF TRIPURA
AGARTALA**

Writ Appeal No. 21 of 2023

1. The State of Tripura, represented by its Principal Secretary, Department of General Administration (AR), Government of Tripura, New Capital Complex, Agartala, West Tripura.
2. The State of Tripura, represented by its Principal Secretary, Department of General Administration (Personnel & Training), Government of Tripura, New Capital Complex, Agartala, West Tripura.
3. The Principal Secretary, Department of General Administration (AR), Government of Tripura, New Capital Complex, Agartala, District-West Tripura, Disciplinary Authority
4. The Under Secretary to the Government of Tripura, Department of General Administration (Personnel & Training), Agartala, District-West Tripura.
5. The District Magistrate & Collector, Unakoti District, Kailashahar

..... Appellant(s)

V E R S U S

Shri Soumitra Chakma, S/O Sri Bijan Behari Chakma of Ujan Abhoynagar, P.O. Abhoynagar, P.S. New Capital Complex, West Tripura

..... Respondent(s)

Writ Appeal No. 59 of 2023

1. The State of Tripura, to be represented by Principal Secretary, Department of General Administration (AR), Government of Tripura, New Capital Complex, , District: West Tripura. Agartala
2. The State of Tripura, to be represented by Principal Secretary, Department of General Administration (Personnel & Training), Government of Tripura, New Capital Complex, District: West Tripura. Agartala.
3. The Secretary, Department of General Administration (AR), Government of Tripura, New Capital Complex, District: West Tripura. Agartala
4. The Secretary, Department of General Administration (Personnel & Training), Government of Tripura, New Capital Complex, District: West Tripura, Agartala.

5. The Under Secretary, Department of General Administration (Personnel & Training) Government of Tripura, New Capital complex, District: West Tripura. Agartala
6. The District Magistrate & Collector, Unakoti District, Kailashahar

Appellant(s)

V E R S U S

Shri Soumitra Chakma, S/O Sri Bijan Behari Chakma, resident of Ujan Abhoynagar, P.O. Abhoynagar, P.S. New Capital Complex, West Tripura

..... Respondent(s)

For Appellant(s)	:	Mr. SS Dey, Advocate General. Ms A Chakraborty, Advocate
For Respondent(s)	:	Mr. Somik Deb, Sr. Advocate Ms. R Purkayastha, Advocate Mr. P Chakraborty, Advocate
Date of hearing	:	17.05.2024
Date of pronouncement	:	16.07.2024
Whether fit for reporting	:	YES

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S. D. PURKAYASTHA

JUDGMENT & ORDER

Both the appeals are on behalf of the State. WA 21 of 2023 is directed against the judgment dated 14.11.2022 passed in WP(C)No.917 of 2022 and judgment dated 01.12.2022 passed in Review Petition No. 66 of 2022 whereas WA 59 of 2023 is directed against the judgment dated 18.01.2023 passed in WP(C) No. 39 of 2023 by the learned Writ Court.

2. By the impugned judgment dated 14.11.2022 the learned Writ Court set aside the Review order dated 03.10.2022 whereby the suspension of the petitioner was extended for a further period of 90 days w.e.f. 23rd September, 2022 to 21st December, 2022. The Review Petition No. 66 of 2022 preferred by the appellant-state herein against the said judgment was dismissed finding no merit since the order extending the period of suspension

was passed after expiry of 90 days giving it effect from retrospective date which was not permissible and would be deemed to be invalid being contrary to sub-rule (6) and (7) of Rule 10 of the CCS(CCA) Rules, 1965.

3. Be it indicated here, that the petitioner had in WP(C) 917/2022 prayed for quashing of the order dated 3rd October, 2022 issued by the General Administration (P&T) Department, Government of Tripura at para 6(I). At para 6(II) he had prayed for revocation/rescinding of the impugned order dated 3rd October, 2022. At para 6(III) he had prayed for issuance of a Writ of Prohibition from acting in any manner in furtherance of the impugned order dated 3rd October, 2022 till final disposal of the writ petition and for an interim stay thereof. The petitioner had, thereafter, approached the Writ Court in WP(C) 39/2023 for a direction upon the respondents to allow the petitioner to resume duty with immediate effect in view of the quashing of the review of the suspension order dated 3rd October, 2022 by the learned writ court in WP(C) 917/2022. The learned Writ Court disposed of WP(C) No. 39/2023 directing the respondents to pass an appropriate order reinstating him in service within a period of 7 days. Chronology of facts and dates are not in dispute between the parties.

4. Now the bare facts to decide the grounds of challenge in this appeal:

- 30.06.2021 : The petitioner was placed under suspension in Contemplation of drawal of Disciplinary Proceeding under Rule 10(1) of the CCS(CCA) Rules, 1965.
- 27.09.2021: Currency of suspension order extended for 180 days with effect from 28.10.2021 to 26.03.2022
- 25.03.2022: Currency of suspension order extended for further 180 days (27.03.2022 to 22.09.2022)
- 02.05.2022: Article of Charges drawn up and communicated with Notice to the writ petitioner
- 13.09.2022: Standing Review Committee recommends extension of period

- of suspension for further 90 days w.e.f. 23.09.2022 to 21.12.2022.
- 03.10.2022: Suspension extended for 90 days (23.09.2022 – 21.12.2022) on the basis of Review committee recommendation dated 13.09.2022.
- 13.12.2022 : Standing Review Committee recommends extension of period of suspension for further 180 days w.e.f. 22.12.2022 to 19.06.2023
Period of suspension has further being extended periodically which are not under challenge and as of now the suspension period extends till 13.06.2024.

5. The appellant has inter alia, made the following submission in support of the impugned judgment:

1. CCS(CCA) Rules, Rule 10(6) contemplates of two stages, viz.,

1.1. An order of suspension made or deemed to have been made under this Rule shall be reviewed by the Authority which is competent to modify or revoke the suspension [before expiry of ninety days from the effective date of suspension] on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension.

1.2 Subsequent reviews shall be made before expiry of the extended period of suspension.

2. CCS(CCA) Rules, Rule 10(7) is relatable and confined only to the first part of Rule 10(6) supra and not the second part inasmuch as Sub-Rule(7) deals with the eventuality of occasion of the initial suspension order which can be validated or extended in the first stage for a period of 90 days only and not the subsequent reviews as contemplated under the second stage of Sub-rule (6) supra.

3. Accordingly, the vice of sub-rule (7) does not cover the incidents of 'subsequent reviews' provided under the second stage of Sub-rule (6); fact remains that 'subsequent reviews' by Review Committee consisting amongst others of the Appointing /Disciplinary Authority had recommended the extension(s) much before expiry of the mandatory 180 days.

4. That the impugned order dated 03.10.2022 which is the manifestation of the 'subsequent review' by Review Committee recommendation dated 13.09.2022 has already lapsed and got merged in the subsequent review recommendation(s)/orders for further subsequent reviews of 180 days (the judgment & Order dated 14.11.2022 passed in WP(C) 917 of 2022 by Hon'ble Single Judge having been stayed in Appeal). Accordingly, for all reasons above the impugned judgment and order dated 14.11.2022 passed in WP(C)917/2022 is liable to be set aside by dismissing the prayers made in the writ petition.

5. Even assuming but not conceding the suspension order under challenge dated 03.10.2022 got vitiated on any count, the same does not automatically entail a consequential order or judicial mandate commanding reinstatement and posting of the delinquent officer. It is always within the Executive and Administrative exigencies and discretion of the Disciplinary Authority to not give any posting order or even reinstate a delinquent Officer in service pending Disciplinary Proceedings considering the nature of charges being faced by the said officer and the gravity of the other attending circumstances.

6. Accordingly, it was prayed that both the Judgment and order dated 14.11.2022 passed in WP(C)917/2022 and 01.12.2022 passed in Review Petition No. 66 of 2022 respectively are liable to be interfered with.

6. The writ petitioner has inter alia, made the following submission in support of the impugned judgment:

i. The petitioner was initially suspended on 30th June, 2021 and that the suspension has continued for more than two years and seven months. The Articles of Charges have been framed by the memorandum dated 2nd May, 2022 communicated to the writ petitioner by letter dated 31st May, 2022. The initial order of suspension was passed in contemplation of a departmental proceeding but after about one year and eleven months, the Articles of Charge have been framed against the original writ petitioner. Such a prolonged suspension and continuance thereof have been deprecated by way of judicial pronouncement in the case of *Ajay Kumar Choudhuary Vs. Union of India through its Secretary & Anr.*, reported in (2015) 7 SCC 291 paragraphs 8 to 20 and 21.

ii. The minutes of the review meeting held on 13th September, 2022, at para 10 thereof, would show that the resolution is bereft of reasons. The solitary reason assigned is that the petitioner may influence the entire inquiry/investigation which however is devoid of any substance.

iii. The minutes of review meeting at best would show that the petitioner had been held liable for error of judgment and does not amount to misconduct. It is further submitted that the power to extend the period of suspension flows from Rule 10(6) which is to be read in reference to Rule 10

of the CCS (CCA) Rules, 1965 ('Rules' for short). It mandates the following authorities who can pass an order of suspension:

- (a) Appointing Authority;
- (b) Any authority subordinate to the appointing authority;
- (c) Disciplinary Authority;
- (d) Any other authority empowered in that behalf by the President by General or Special Order.

iv. Prior to suspension, the petitioner was holding the post of Tripura Civil Services Grade-I (TCS Gr 1 for short) and was posted as ADM & Collector, Unakoti District. As such, none of the above authorities, nor the Under Secretary, GA (P&T) Department who issued the formal order of extension of the suspension can be held to be the Appointing authority of the petitioner. Reference has been made to Section 16 of the General Clauses Act, 1897 where by any Central Act or Regulation, a power to make any appointment is conferred, unless a different intention appears, the authority having for the time being, power to make the appointment, shall also have the power to suspend or dismiss any person, appointed whether by itself or any other authority in exercise thereof. Rule 10(1) read along with 10(6) & 10(7) does not express any different intention as to the authority empower to impose an order of suspension and pass a review thereof.

v. It is submitted that the petitioner being a Group-A Gazetted Officer of the General Administration (Administrative Reforms) Department which is headed by the Hon'ble Chief Minister of the State, he could only be regarded as the Disciplinary Authority.

vi. Under Article 166 of the Constitution of India, the rules of Executive Business have been framed by the Government of the State of Tripura, 1972. Rule 30A & 30B read together would leave no room for doubt that it is only the Hon'ble Chief Minister who is the competent authority to be the disciplinary authority of the original writ petitioner.

vii. None of the members of the Review Committee, which held its meeting on 13th September, 2022, were either the appointing authority or the disciplinary authority or any authority as contemplated under Rule 10(1). Learned counsel for the petitioner has placed reliance on the decision of *Union of India and Ors Vs. B.V. Gopinath*, reported in (2014) 1 SCC 351, paragraphs 1,4,5,40 to 52.

viii. Learned senior counsel for the petitioner has further submitted that a plain reading of Rule 10(6) would show that

- (a) An order of suspension made/deemed to have been made, may be reviewed, thereby either extending or revoking the suspension;
- (b) Such review can only be made by the authority which is competent to revoke the order of suspension.
- (c) Revocation of the order of suspension must be preceded by a recommendation of the Review Committee, constituted for the purpose.
- (d) Such review of the order of suspension in case is extended further has to be concluded before expiry of 90 days from the effective date of extended period of suspension.

7. Based on these submissions and the interpretation of Rule 10(6), learned senior counsel for the petitioner has argued that the impugned review order of extension of suspension was not valid having been made after the period of 90 days. The resolution of the Review committee can only be a recommendation. Unless the competent authority empowered to revoke the

order of suspension taken decision within the period of 90 days of the expiry of the previous suspension order, the review order of the extension of suspension would be bad in law. The impugned judgment is therefore perfectly justified, legal and proper in the eye of law which requires no interference.

8. On consideration of the rival submission of the parties and after taking note of the materials on record, the only question which arises for determination in these appeals is:

Whether the impugned order dated 3rd October, 2022 issued by the General Administration (P&T) Department, Government of Tripura whereby the suspension of the petitioner was extended for a further period of 90 days was proper in the eye of law or not, since the period of suspension of the petitioner as per the previous order dated 25th March, 2022 expired on 22nd September, 2022?

9. In view of the reasons to be recorded hereinafter, this Court is of the considered view that such extension of the suspension period by an order passed in review under Rule 10(6) of the CCS(CCA) Rules is not sustainable in law. The impugned order of suspension dated 3rd October, 2022 is extracted hereunder:

**“GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (PERSONNEL & TRAINING) DEPARTMENT**

No.F.35(46)-GA(P&T)/2001

Dated Agartala the 3rd October, 2022

ORDER

WHEREAS, Shri Soumitra Chakma TCS Gr-I Ex-ADM & Collector, Unakoti District Was placed under suspension vide Order No.F.35(46)-GA(P&T)/2001 dated 30th June, 2021 in contemplation of disciplinary proceeding against him.

AND

2. WHEREAS, suspension of Shri Chakma, TCS Gr-I has been reviewed on 13.09.2022. The Committee has observed that the Revenue Department referred an order of Hon'ble High Court of Tripura vide Case No. WP(C)1381/2016 in Fortuna Agro Plantations Ltd. Vrs. State Respondents in Revenue Department, Govt. of Tripura and others wherein it was inter-alia directed as below –

Therefore, the Land Acquisition Collector, Unakoti District is directed to cause survey by the technically sound person to determine the land which has been severed for construction of the IBB fencing. The damage shall be assessed ascertaining the value of the land and the damage that has been caused for acquisition. It is clearly mentioned that this court has not endorsed to any fact to be considered.”

AND

3. WHEREAS, the State Govt. in Revenue Department vide letter dated 22-03-2021 directed the DM & Collector, Unakoti to take necessary action as per direction of the Hon’ble High Court of Tripura. It appears that LAC Unakoti had acted on the above direction and performed the task. There is a clear non-application of mind on the part of the LAC to do the work properly and he miserably failed to exercise his statutory powers in the capacity of LAC Unakoti.

AND

4. WHEREAS, the Standing Review Committee has also noted that 2(two) FIRs were lodged against Shri Soumitra Chakma, TCS Gr-I, Ex-ADM & Collector, Unakoti (now under suspension) with the Kailashahar Police Station bearing case No. 2021 KLS 106 dated 22-09-2021 on IBB fencing issue and the Case bearing No. 2021 KLS 107 dated 22-09-2021 on issue relevant to Nitingcharra Tea Estate.

5. NOW, THEREFORE, the Competent Authority has decided that the period of suspension of Shri Soumitra Chakma, TCS Gr-I, Ex-ADM & Collector, Unakoti District with additional charges of PD, DRDA, Unakoti District and ADM & Collector (Priority Projects) Unakoti District may be extended for a further period of 90 (ninety) days w.e.f. 23rd September, 2022 to 21st December, 2022.

By order of the Governor

Sd/- illegible

(Jai Datta)

Under Secretary to the
Government of Tripura”

10 Be it also indicated that by memorandum dated 22nd May, 2022 the petitioner was proceeded for official mis-conduct for the following Article of Charges:

“STATEMENT OF ARTICLE OF CHARGES FRAMED AGAISNT SHRI SOUMITRA CHAKMA, TCS GR-I THE THEN LAND ACQUISITION COLLECTOR, UNAKOTI DISTRICT.

ARTICLE-I

Shri Soumitra Chakma, during his incumbency period from 11-08-2020 to 30-06-2021 as Land Acquisition Collector has failed to maintain absolute integrity and devotion to duty as he has made arbitrary and unreasonably assessment for compensation of the land and also for compensation of the damage cost of the trees etc. which was found as highly excessive and not in conformity of the provisions of the Land Acquisition Act, 1984.

Shri Chakma was asked to make correct assessment of the damage in conformity with the judgment of the Hon’ble High Court in case No. WP(C) 1381/2016. A total land measuring 24.08 acres were acquired for construction of IBB fencing at Murticherra Mouja under Kailashahar Sub-Division vide notification No. F.9(5)-REV/ACQ/II/2005 dated 30th August, 2005. Out of total land measuring 24.08 acres, jote land was 19.14 acres and khas land was 4.94 acres. But the LAC, Unakoti has submitted the assessment cost for compensation of land measuring 225.80 acres covering the entire land from zero line to IBB fencing beyond the area of acquisition, which is only 24.08 acres. Further, LAC has also proposed for compensation of damage cost of trees fallen within said 225.80 acres of land.

The market value of land has to be determined as per crucial date of publication of the Notification under Section 4 of the Land Acquisition Act, 1984. But there is no such indication found in the report of LAC vide letter No. DM/LA/KAI/05/2005/2086-90 dated 25-03-2021. Every case must be dealt with on its own fact based on real assessment keeping in mind all these facts that lie in the Land Acquisition Act, 1984 as a prudent purchaser or a compensation assessment authority.

Shri Soumitra Chakma, TCS Gr-I while working as a Land Acquisition Collector Unakoti w.e.f. 11-8-2020 to 30-6-2021 has miserably failed to exercise his statutory power to cause survey by technically sound person to determine the land which has been severed for construction of IBB fencing and also failed to exercise his statutory power as Land Acquisition Collector (LAC) for determining damage, etc.

The compensation calculated is highly excessive and contrary to the prevailing settled norms of the Land Acquisition Act, 1984. Furthermore, LAC had given a copy of the damage assessment report to the party of writ petitioners, that is, MS Fortuna Agro Plantations Ltd. and others, without obtaining approval of the competent authority of the State Government in contravention of the provisions of established norms.

By the above acts, Shri Soumitra Chakma, TCS Gr-I, Ex-LAC, O/o the DM & Collector, Unakoti District has committed gross misconduct, which is quite unbecoming of a Government servant and thus, he has violated the provisions of Rule 3 of the TCS(Conduct) Rules, 1988.

ARTICLE-II

Shri Soumitra Chakma, TCS while working in the capacity of Land Acquisition Collector, Unakoti district, without taking any Government approval arbitrarily and unreasonably sent a requisition of Rs.235.00 crore to NBCC for making payment of compensation in LA case No.7/Kai/2005 against the award passed in compliance of judgment and order dated 5-1-2021 in W.P. No. 1381 of 2016 filed by M/s Fortuna Agro Plantation Ltd. in violation of Rule-19 of DFPRT, 2019.

By the above act, the then LAC, Shri Soumitra Chakma, TCS has miserably failed to exercise his statutory power and violated the provisions of Rule 3 of TCS (Conduct) Rules, 1988 which is unbecoming of a Government servant.

ARTICLE-III

During the aforesaid period and while functioning as Land Acquisition Collector, Shri Soumitra Chakma, TCS illegally made payment of huge LA compensation amounting to Rs.58,28,476/- to a middleman of Natingcherra Tea Garden in defiance of all settled norms.

By the above act, the then LAC Shri Soumitra Chakma, TCS Gr-I has violated the provisions of Rule 3 of TCS (Conduct) Rules, 1988 which is unbecoming of a Government servant.”

11. The petitioner was originally placed under suspension on 30th June, 2021. The Departmental proceeding was underway when the Review Committee recommended extension of period of suspension of the petitioner for further 90 days on 13th September, 2022. As such, the contention of the petitioner that the suspension has continued for an unduly prolonged period and gets vitiated in the eye of law is not correct. The petitioner has though questioned the reasoning of the Review committee vide meeting dated 13th September, 2022 on merits but the same need not be gone into as this court is of the opinion that the extension of suspension of the petitioner made after expiry of 90 days period on 22nd September, 2022 by the impugned order dated 3rd October, 2022 was not in consonance with the relevant provisions of the CCS (CCA) Rules, i.e. Rule 10(6).

12. For reference, Rule 10(1), 10(5), 10(6) and 10(7) of the CCS (CCA) Rules, 1965 are quoted hereunder:

“10. Suspension

(1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the President, by general or special order, may place a Government servant under suspension-

(a) where a disciplinary proceeding against him is contemplated or is pending; or

- (aa) where, in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or
(b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial:

Provided that, except in case of an order of suspension made by the Comptroller and Auditor - General in regard to a member of the Indian Audit and Accounts Service and in regard to an Assistant Accountant General or equivalent (other than a regular member of the Indian Audit and Accounts Service), where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

(5) (a) Subject to the provisions contained in sub-rule (7), and order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a Government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government servant shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

(6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority which is competent to modify or revoke the suspension, before expiry of ninety days from the effective date of suspension, on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.

(7) An order of suspension made or deemed to have been made under sub-rule (1) or (2) of this rule shall not be valid after a period of ninety days unless it is extended after review, for a further period before the expiry of ninety days.

Provided that no such review of suspension shall be necessary in the case of deemed suspension under sub-rule (2), if the Government servant continues to be under suspension at the time of completion of ninety days of suspension and the ninety days period in such case will count from the date the Government servant detained in custody is released from detention or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later.”

13. It is apposite to refer to the opinion of the Hon'ble Supreme Court in the case of *Union of India Vs. Dipak Mali* reported in (2010) 2 SCC 222 which has also been quoted by the learned Single Judge in the impugned review judgment. The relevant paragraphs No. 10 & 11 of the decision in the case of *Dipak Mali* (supra) are extracted hereunder:

“10. Having carefully considered the submissions made on behalf of the parties and having also considered the relevant dates relating to suspension of the respondent and when the petitioners' case came up for review on 20-10-2004, we are inclined to agree with the views expressed by the Central Administrative Tribunal, as confirmed by the High Court, that having regard to the amended provisions of sub-rules (6) and (7) of Rule 10, the review for modification or revocation of the order of suspension was required to be done before the expiry of 90 days from the date of order of suspension and as categorically provided under sub-rule (7), the order of suspension made or deemed would not be valid after a period of 90 days unless it was extended after review for a further period of 90 days.

11. The case sought to be made out on behalf of the petitioner Union of India as to the cause of delay in reviewing the respondent's case, is not very convincing. Section 19(4) of the Administrative Tribunals Act, 1985, speaks of abatement of proceedings once an original application under the said Act was admitted. In this case, what is important is

that by operation of sub-rule (6) of Rule 10 of the 1965 Rules, the order of suspension would not survive after the period of 90 days unless it was extended after review. Since admittedly the review had not been conducted within 90 days from the date of suspension, it became invalid after 90 days, since neither was there any review nor extension within the said period of 90 days. Subsequent review and extension, in our view, could not revive the order which had already become invalid after the expiry of 90 days from the date of suspension.”

14. A plain reading of Rule 10(6) would show that:

- (a) An order of suspension made or deemed to have been made under this Rule may be reviewed either modifying or revoking the suspension.
- (b) Such review can only be made by the authority who is competent to revoke the order of suspension.
- (c) Such an order of review is to be made on the recommendation of the review committee constituted for the purpose.
- (d) Such review of the order of suspension is to be undertaken before expiry of 90 days from the effective date of extended suspension.
- (e) Subsequent review shall also be made before the expiry of the extended period of suspension.
- (f) Extension of suspension shall not be for a period exceeding 180 days at a time.

15. Sub-rule (7) further provides that an order of suspension made or deemed to have been made under sub-rule (1) or sub-rule (2) shall not be valid after a period of 90 days unless it is extended after review for a further period before the expiry of 90 days.

16. According to the basic rule of interpretation, where plain wordings used in a rule/statutory provision are clear and unambiguous, then the Court is to go by the rule of literal construction and it is precluded to include or exclude or mend or to make any interpretation by means of using external aids or to attempt to give a strained construction of the provision.

17. In *Union of India & Anr. Vs. Hansoli Devi & Ors.*, reported in (2002) 7 SCC 273 the Apex Court has observed as under:

“9. Before we embark upon an inquiry as to what would be the correct interpretation of Section 28-A, we think it appropriate to bear in mind certain basic principles of interpretation of a statute. The rule stated by Tindal, C.J. in *Sussex Peerage case* [(1844) 11 Cl & Fin 85 : 8 ER 1034] still holds the field. The aforesaid rule is to the effect: (ER p. 1057)

“If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver.”

It is a cardinal principle of construction of a statute that when the language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. In *Kirkness v. John Hudson & Co. Ltd.* [(1955) 2 All ER 345 : 1955 AC 696 : (1955) 2 WLR 1135] Lord Reid pointed out as to what is the meaning of “ambiguous” and held that: (All ER p. 366 C-D)

“A provision is not ambiguous merely because it contains a word which in different contexts is capable of different meanings. It would be hard to find anywhere a sentence of any length which does not contain such a word. A provision is, in my judgment, ambiguous only if it contains a word or phrase which in that particular context is capable of having more than one meaning.”

It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices and absurdities, then the court may look into the purpose for which the statute has been brought and would try to give a meaning, which would adhere to the purpose of the statute. Patanjali Sastri, C.J. in the case of *Aswini Kumar Ghose v. Arabinda Bose* [(1952) 2 SCC 237 : AIR 1952 SC 369 : 1953 SCR 1] had held that it is not a sound principle of construction to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute. In *Quebec Railway, Light Heat & Power Co. Ltd. v. Vandry* [AIR 1920 PC 181] it had been observed that the legislature is deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the legislature will not be accepted except for compelling reasons. Similarly, it is not permissible to add words to a statute which are not there unless on a literal construction being given a part of the statute becomes meaningless. But before any words are read to repair an omission in the Act, it should be possible to state with certainty that these words would have been inserted by the draftsman and approved by the legislature had their attention been drawn to the omission before the Bill had passed into a law. At times, the intention of the legislature is found to be clear but the unskillfulness of the draftsman in introducing certain words in the statute results in apparent ineffectiveness of the language and in such a situation, it may be permissible for the court to reject the surplus words, so as to make the statute effective. Bearing in mind the aforesaid principle, let us now examine the provisions of Section 28-A of the Act, to answer the questions referred to us by the Bench of two learned Judges. It is no doubt true that the object of Section 28-A of the Act was to confer a right of making a reference, (sic on one) who might have not made a reference earlier under Section 18 and, therefore, ordinarily when a person makes a reference under Section 18 but that was dismissed on the ground of delay, he would not get the right of Section 28-A of the Land Acquisition Act when some other person makes a reference and the reference is answered. But Parliament having enacted Section 28-A, as a beneficial provision, it would cause great injustice if a literal interpretation is given to the expression “had not made an application to the Collector under Section 18” in Section 28-A of the Act. The aforesaid expression would mean that if the landowner has made an application for reference under Section 18 and that reference is entertained and answered. In other words, it may not be permissible for a landowner to make a reference and get it answered and then subsequently make another application when some other person gets the reference answered and obtains a higher amount. In fact in *Pradeep Kumari case* [(1995) 2 SCC 736] the three learned Judges, while enumerating the conditions to be satisfied, whereafter an application under Section 28-A can be moved, had categorically stated (SCC p. 743, para 10) “the person moving the application did not make an application to the Collector under Section 18”. The expression “did not make an application”, as observed by this Court, would mean, did not make an effective application which had been entertained by making the reference and the reference was answered. When an application under Section 18 is not entertained on the ground of limitation, the same not fructifying into any reference, then that would not tantamount to an effective application and consequently the rights of such applicant emanating from some other reference being answered to move an application under Section 28-A cannot be denied. We, accordingly answer Question 1(a) by holding that the dismissal of an application seeking reference under Section 18 on the ground of delay would tantamount to not filing an application within the meaning of Section 28-A of the Land Acquisition Act, 1894.”

18. In paragraph 22 of the decision of *M/S Hiralal Rattanlal Vs. State of U.P. & Anr.* reported in (1973) 1 SCC 216 the Apex Court has further observed as under:

“22. It was next urged that on a true construction of Explanation II to Section 3-D, no charge can be said to have been created on the purchases of split or processed pulses. It was firstly contended that an Explanation cannot extend the scope of the main section, it can only explain that section. In construing a statutory provision, the first and the foremost rule of construction is the literary construction. All that we have to see at the very outset is what does that provision say? If the provision is unambiguous and if from that provision, the legislative intent is clear, we need not call into aid the other rules of construction of statutes. The other rules of construction of statutes are called into aid only when the legislative intention is not clear. Ordinarily a proviso to a section is intended to take out a part of the main section for special treatment. It is not expected to enlarge the scope of the main section. But cases have arisen in which this Court has held that despite the fact that a provision is called proviso, it is really a separate provision and the so-called proviso has substantially altered the main section. In *CIT v. Bipinchandra Maganlal & Co. Ltd., Bombay* [AIR 1961 SC 1040 : (1961) 2 SCR 493 : (1961) 41 ITR 290] this Court held that by the fiction in Section 10(2)(vii) second proviso read with Section 2(6-C) of the Indian Income Tax Act, 1922 what is really not income is, for the purpose of computation of assessable income, made taxable income.”

19. The expression ‘authority’ who is competent to modify or revoke the suspension under sub-rule (6) is to be understood in relation to Rule 10(1) which provides for placing a government employee under suspension by the appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the president by general or special order on the conditions enumerated under sub-rule (1) (a); (aa); (b).

20. The language of sub-rule (6) further makes it clear that the review committee is constituted for making a recommendation for the purposes of either extending or revoking the suspension upon which the authority who is competent to modify or revoke the suspension is to pass an order. As such, the resolution of the review committee dated 13th September, 2022 can only be recommendatory in nature upon which the authority that is competent to modify or revoke the suspension has to take a decision.

21. Sub-rule (6) further makes it clear that such review has to be made by the authority who is competent to modify or revoke the suspension before expiry of 90 days from the effective date of suspension. It further clarifies that subsequent reviews shall be made before expiry of the extended period of suspension.

22. The instant case is one where the original order of suspension dated 13th June, 2021 was first extended on 27th September, 2021, then further extended on 25th March, 2022 and was extended further for a period of 90 days by the impugned order dated 3rd October, 2022. As such, it was a case of subsequent review which had to be made before expiry of the extended period of suspension. Sub-rule (7) has to be read in conjunction of sub-rule(6). This of course contemplates extension after review of an order of suspension made or deemed to have been made under sub-rule (1) or (2) of Rule 10 before expiry of the period of 90 days failing which it won't be valid.

23. It is thus clear that under sub-rule (6) or (7) extension of an order of suspension or subsequent review has to be made before the expiry of the period of validity of the previous order of suspension or the order of extension of the original suspension. Such period has been repeatedly indicated as before expiry of 90 days from the effective date of suspension.

24. In the present case, there are only three dates relevant for consideration, viz., (i) 13th September, 2022, the date on which the review committee made its recommendation for extension of the suspension period; (ii) the date of expiry of the effective period of suspension i.e. 22nd September, 2022 as per the order of extension of suspension dated 25th March,

2022; and (iii) 3rd October, 2022 on which date the order of extension of suspension was issued by the General Administration (P&T) Department.

25. On the basis of the construction of the relevant sub-rule (6) and (7) of Rule 10 and in view of the judgment rendered by the Apex Court in *Dipak Mali* (supra) referred to hereinabove, it is thus clear that the order of extension of suspension was made by the competent authority after the expiry of the period of suspension, i.e. 22nd September, 2022. The learned Writ Court was, therefore, right in holding that the impugned order dated 3rd October, 2022 by which the suspension of the petitioner was extended further for a period of 90 days was bad in law and fit to be quashed.

26. Having regard to the detailed discussion and reasons recorded hereinabove, this court is of the opinion that the interpretation accorded to sub-rule 10(6) and sub-rule 10(7) on behalf of the appellant-state would be the correct interpretation and understanding of the relevant rules. This is not only clear from a plain reading of the express language of the relevant sub-rule (6) and (7) but also the decision rendered by the Apex Court in the case of *Dipak Mali* (Supra) and the underlying reasoning as are reflected from the observations made by the Apex Court in various judgments rendered from time to time. Suspension perpetuated indefinitely or for an indeterminate period without review would render it punitive in nature unless it is renewed based on sound reasoning contemporaneously available on the record. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and of short durations.

27. It has been observed that departmental proceedings invariably commence with delay and culminate after even longer delay. The delinquent

employee under suspension suffers in the meantime. The legal expectation of expedition and diligence are a *fortiori* applicable in departmental enquiries also as emphasized by the Apex court on numerous occasions. It only to ensure that the suspension does not continue for a indeterminate period that provisions such as sub-rule (6) and (7) of Rule 10 of the CCS (CCA) Rules, have been inserted by way of an amendment vide notification dated 6th June, 2007 published in the Gazette of India dated 16th June, 2007.

28. It is also important to take note of the expression ‘shall’ used more than once in sub-rule (6) and sub-rule (7). Any departure of this sub-rule will defeat the very object for which the rule makers have brought this amendment to provide for a check and regulation of the power of the competent authority in matters of suspension.

29. As such, this court does not find any reason to interfere in the impugned judgment dated 14.11.2022 passed in WP(C) 917 of 2022 and judgment dated 01.12.2022 passed in Review Petition No. 66 of 2022. The Writ Appeal No. 21/2023 is accordingly dismissed.

30. In Writ Appeal No. 59/2023 the writ petitioner has prayed for a direction to reinstate him after the order dated 3rd October, 2022 was quashed in WP(C)917/2022. The learned writ court disposed of the writ petition by the impugned judgment dated 18.01.2023 directing the respondents to pass an appropriate order reinstating the petitioner in service within a period of seven days from the date of the order.

31. However, the order of the learned Writ Court for reinstatement passed on 18.01.2023 cannot be given effect to at this stage as the petitioner’s suspension was further extended in the meantime and such extensions of

suspension are not subject matter of the writ petition and the instant appeal. This court was informed on behalf of the appellant that the departmental proceeding is at a fag end and final orders were to be passed after obtaining the concurrence of the Commission. Therefore, the reinstatement of the petitioner from suspension is dependent upon the outcome of the departmental proceeding or the effective period of the subsequent suspension of the petitioner.

32. Therefore, the impugned order dated 18.01.2023 passed in WP(C) No. 39 of 2023 cannot be given effect to at this stage of time. Therefore, it is interfered to that extent. The Writ Appeal No. 59/2023 stands disposed of with the aforesaid observations.

33. Consequently, the Writ Appeal No. 21 of 2023 is dismissed and WA 59 of 2023 stands disposed with the above observations.

Pending application(s), if any, also stand disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ