

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION NO.38047 OF 2015

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

O.A.No.484 of 2014 was filed by the first respondent herein before the Central Administrative Tribunal, Hyderabad Bench (*hereinafter*, 'the Tribunal'), assailing the Memo dated 28.05.2013 issued by the Superintendent of Post Offices, Kurnool Division, placing him under suspension; the letter dated 27.08.2013 issued by the Superintendent of Post Offices, Kurnool Division, informing him that his suspension was reviewed and was extended for a period of 180 days with effect from 27.08.2013 to 22.02.2014; and the Memo dated 21.02.2014 issued by the Superintendent of Post Offices, Kurnool Division, informing him that his suspension was extended for a further period of 180 days with effect from 23.02.2014 to 21.08.2014. He sought a consequential direction to the authorities to reinstate him in service. By order dated 18.03.2015, the Tribunal allowed the O.A. and directed the authorities to reinstate the first respondent-applicant in service with effect from 27.08.2013 with all consequential benefits. Liberty was however given to the authorities to take fresh action as per law, if warranted. Aggrieved by the said order, the Union of India and its postal authorities filed the present writ petition.

By order dated 27.11.2015, this Court only granted stay of consequential benefits. W.V.M.P.No.5116 of 2017 was filed by the first respondent-applicant to vacate the said order.

Heard Sri K.Laxman, learned Assistant Solicit General for India appearing for the petitioners, and Sri Danthu Srinivas, learned counsel for the first respondent-applicant.

As arguments were advanced covering all the issues, the matter is amenable to disposal at the interlocutory stage.

The issue essentially turns upon Rules 10(6) and 10(7) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (for brevity, 'the Rules of 1965'). These Rules read as under:

'10(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 of exceeding one hundred and eighty days at a time.

10(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.'

It is not in dispute that the first respondent-applicant was placed under suspension by order dated 28.05.2013 in the first instance. Therefore, any extension thereof necessarily had to be made before expiry of 90 days from the said date. Ninety days from 28.05.2013 expired on 26.08.2013. Therefore, the order of extension, if any, necessarily had to be passed before the said date. Admittedly, the order of extension was passed on 27.08.2013, i.e., one day after the expiry of the stipulated 90 days period.

The learned Assistant Solicitor would however state that review of the case of the first respondent-applicant for extension of the suspension was made on 22.08.2013 and was therefore within the stipulated 90 days period.

However, the same is of no avail as the rule specifically mandates that not only the review but also the extension needs to be before the expiry of

the 90 days period. In the case on hand, it was not so. Therefore, the first extension of the suspension of the first respondent-applicant on 27.08.2013 was itself illegal, being contrary to Rule 10(7) of the Rules of 1965. The further extension on 21.02.2014 therefore has no legs to stand upon. The order of the Tribunal holding to this effect was perfectly valid and justified. No cause is made out for interference in this writ petition.

The writ petition is accordingly dismissed. Interim stay dated 27.11.2015 shall stand vacated. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

20th APRIL, 2018

Sv



SANJAY KUMAR, J

M. GANGA RAO, J