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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12669 OF 2019

Peeyush Kamalkumar Pandey. ...Petitioner.
Versus
Union of India and Others. ..Respondents.

Mr. S. V. Marne for the Petitioner.
Mr. A. M. Sethana and Mr. A. R. Gole for the Respondents.

Coram : RANJIT MORE &
SURENDRA P. TAVADE, JJ.
Date : **December 16, 2019.**

P. C. :

1. Heard the learned counsel appearing for the respective parties. The Petitioner was charged for violating Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of the Central Civil Conduct Rules 1964 since he was found in possession of the huge amount in cash worth Rs.96,92,101/- and also found in possession of assets disproportionate to his known sources of income to the tune of Rs.1.02 crore.

2. The Petitioner did not participate in disciplinary enquiry proceedings. The those proceedings, therefore, went on *ex-parte* and closed the enquiry. At that stage, the Petitioner approached the Central Administrative Tribunal. On 7th June 2019 after hearing the parties, the CAT passed ad-interim order

thereby directing the disciplinary authority not to pass final orders in regard to the disciplinary proceedings against the Petitioner. However, thereafter the CAT dismissed the Petitioner's application. The petitioner thereafter approached this Court by filing a writ petition, being Writ Petition No.11705 of 2019. This writ petition came to be disposed of on 14th November 2019. This Court refused to entertain the writ petition, however, in order to protect the interest of the Petitioner, the Court directed that in the event of any order adverse to the Petitioner is passed by the disciplinary authority, the same shall not take effect for the period of two weeks from the date of its communication to the Petitioner.

3. The Petitioner by the order dated 3rd December 2019 came to be dismissed from services by disciplinary authority. The learned counsel for the Petitioner fairly admits that order of dismissal passed by the disciplinary authority can be challenged by filing an appeal before the Principal Commissioner of Customs and the Petitioner proposes to file such appeal. The present writ petition is preferred the earlier protection granted to the Petitioner is due to expire on 18th December 2019.

4. Mr. Marne, learned counsel for Petitioner also relied upon the circular dated 24th February 2011 [Exhibit-R to the petition] issued by the Ministry of Finance, Department of Revenue, Central Board of Excise and Customs and particularly clause 3 thereof which makes it obligatory for the departments to record the oral evidence in the presence of the charged employee and even in cases where an ex-parte hearing is held, it is essential that a statement is duly recorded / affirmed in the regular hearing.

5. Having considered rival submissions and having gone through the circular dated 24th February 2011, we deem it convenient to dispose of this writ petition by continuing the protection granted to the Petitioner under the order dated 14th November 2019 in Writ Petition No. 11705 of 2019 for the period of 10 days from today. **Ordered accordingly.**

6. It is made clear that this Court has not gone into merits of the matter and all points and contentions of the respective parties are kept open.

7. In the event the Petitioner files an appeal against the dismissal order, the same shall be decided independently, on its own merits and strictly in accordance with law. In the interest of

justice, we direct that the appellate authority to expedite the hearing of appeal to be filed by the Petitioner.

[SURENDRA P TAVADE, J.]

[RANJIT MORE, J.]