Yumkham Rother
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IN THE HIGH COURT OF MANIPUR
AT IMPHAL
W.P. (C) No. 536 of 2020

Shri Naorem Dijamani Singh, aged about 65 years, S/o late N. Basudeva Singh of Wangjing Awang Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795148 working as President, Consumer Disputes Redressal Forum, Manipur.

... Petitioner

-Versus-

1. The State of Manipur represented by the Commissioner, Consumer Affairs Food and Public Distribution (CAF & PD), Government of Manipur, Manipur Secretariat, Imphal West, Babupara, Pin No-795001.
2. The Joint Secretary (CAF & PD), Government of Manipur, Manipur Secretariat, Imphal West, Babupara, Pin No-795001.

.... Respondents

B E F O R E
HON'BLE MR. JUSTICE KH. NOBIN SINGH

For the petitioner	::	Shri Th. Ibohal, Sr. Advocate.
For the respondents	::	Smt. L. Monomala, Govt. Advocate
Date of Hearing	::	**02-12-2020**
Date of Judgment & Order	::	**07-12-2020**

JUDGMENT & ORDER

[1] Heard Shri Th. Ibohal, learned Senior Advocate appearing for the petitioner and Smt. L. Monomala, learned Government Advocate appearing for the State respondents.

[2] By the instant writ petition, the petitioner has prayed for issuing a writ of certiorari or any other appropriate writ to set aside the suspension order dated 11-06-2019 issued by the Joint Secretary (CAF & PD), Government of Manipur.

[3.1] Facts and circumstances as stated in the writ petition, are that the petitioner passed his Bachelor Degree in Law (LLB) from Lucknow University in the year 1981 and thereafter, he started his practice as an Advocate which continued for quite a long time.

[3.2] On the recommendation of a Selection Committee in its meeting held on 12-09-2018, the Government of Manipur, in exercise of power conferred by sub-Section (1) of Section 10 of the Consumer Protection Act, 1986, was pleased to appoint him as the President of the District Forum vide order dated 03-10-2018 issued by the Under Secretary (CAF & PD), Government of Manipur. After the petitioner having been appointed as the President thereof, he started discharging his duties sincerely and performing all the duties assigned to him from time to time without any blemish.

[3.3] Thereafter, the Joint Secretary (CAF & PD), Government of Manipur issued a Notification dated 04-04-2019 under Section 9(a) of the Consumer Protection Act, 1986 and in compliance with the order dated 12-08-2018 passed by the Hon'ble High Court of Manipur in PIL No.17 of 2018, establishing the District Forum for all the sixteen districts of Manipur.

[3.4] To the utter surprise of the petitioner, the Joint Secretary (CAF & PD), Government of Manipur issued an order dated 11-06-2019 placing the petitioner under suspension by invoking sub-rule (2) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter referred to as "**the CCS Rules, 1965**") on the alleged ground that the petitioner was detained by the police on 31-05-2019 and had

remained in their custody for a period exceeding 48 hours.

[4] Even though Rule 10(6) of the CCS Rules, 1965 mandates that the competent authority shall examine the matter of suspension before the expiry of 90 days and review it, the competent authority has failed to do it with the result that the suspension order is vitiated and is unsustainable after the expiry of 90 days. On top of that, after the petitioner had been placed under suspension vide order dated 11-06-2019, he was not given subsistence allowance which the petitioner is entitled to receive under FR 53. On the failure of the respondents to pay his subsistence allowance, he submitted a representation dated 13-02-2020 addressed to the Commissioner, Consumer Affairs, Food and Public Distribution, Government of Manipur for payment of monthly subsistence allowance, followed by a reminder dated 11-09-2020. Being aggrieved by the inaction on the part of the State Governments and the suspension order dated 11-06-2019, the instant writ petition has been filed by the petitioner.

[5] An affidavit on behalf of the respondents has been filed stating that the Singjamei Police took up a criminal case against the petitioner in respect of a criminal offence. He was detained by the police on 31-05-2019 and had remained in their custody for a period exceeding 48 hours because of which the suspension order dated 11-06-2019 was issued by the State Government. It has further been stated that an initiative has already been taken to consider for grant of subsistence allowance and a Committee was constituted vide order dated 02-11-2020 to consider it but the Committee could not hold its meeting due to the Chairman/Director (CAF & PD), Government of Manipur being hospitalized at RIMS on

account of his being tested positive of Covid-19 on 21-11-2020 and he started attending office only after his discharge from the hospital.

[6] When the matter is taken up for consideration, it has been submitted by Shri Th. Ibohal, learned Senior Advocate appearing for the petitioner that since the order of suspension has not been reviewed within a period of 90 days as prescribed in Rule 10(6) of the CCS Rules, 1965, the same is bad in law and is liable to be quashed and set aside. In support of his contention, he has relied upon the decision rendered by this Court in **Md. Ziauddin & ors Vs. State of Manipur & ors,** reported in (2017) 1 NEJ 607.

[7] It is not in dispute that the State Government issued the order of suspension dated 11-06-2019 stating that the petitioner shall be deemed to have been suspended with effect from 31-05-2019 in terms of sub-rule 10 of CCS Rules, 1965 and shall remain under suspension until further orders. But the contention of the learned counsel appearing for the petitioner is that in terms of Rule 10(6), the order of suspension shall be reviewed by the competent authority and it will not be valid after a period of ninety days, if it is not reviewed within the said ninety days as provided under Rule 10(7) of the CCS Rules, 1965. Rule 10(6) and (7) of the CCS Rules, 1965 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 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.***"**

[8] From the perusal of the affidavit filed on behalf of the respondents, it is absolutely clear that it is nowhere stated therein that the order of suspension has been reviewed by the competent authority. All that has been stated, is that a Committee was constituted but it could not hold its meeting, as the Chairman was in the hospital on account of his being tested positive of COVID-19. This averment made in the affidavit has clearly shown that the provisions of Rule 10 (6) have not been complied with and consequently, in terms of Rule 10(7), the order of suspension has been rendered invalid. The contention of the learned counsel appearing for the petitioner is correct that the issue involved herein is covered by the decision rendered by this Court in **Md. Ziauddin** (supra), the relevant paragraph 12 thereof read as under:

> ***"[12]*** *Having held that Sub-Rule (6) & (7) of Rule 10 of the CCS (CCA) Rules, 1965 are applicable in the State of Manipur, this court proposes to dispose of all the writ petitions based on the factual position of each case. In writ petition being W.P. (C) No. 966 of 2015, the suspension order was issued on 17-03-2015 and since it had not been reviewed within 90 days as prescribed under Sub-Rule (6), it had become invalid in terms of the provisions under Sub-Rule (7) and accordingly, the same is liable to be quashed and set aside. Similar is the case with the writ petition being W.P. (C) No. 622 of 2015 wherein the suspension order was issued on 28-09-2012 in exercise of power conferred under Sub-Rule (1) of Rule 10 of the CCS (CCA) Rules, 1965 and even though the detention order dated 29-09-2012 having been revoked, the suspension order was neither reviewed within 90 days as prescribed under Sub-Rule (6) nor had it been cancelled or withdrawn and therefore, the suspension order is bad in law and is liable to be quashed and set aside. In writ petition being W.P. (C) No. 239 of 2016, the suspension order was issued on 11-09-2014 invoking the power under proviso to Sub-Rule (1) of the CCS (CCA) Rule, 1965 and since it had not been reviewed within 90 days as prescribed under Sub-Rule (6), it had become invalid in terms of the provisions under Sub-Rule (7) and accordingly, the same is liable to be quashed and set aside."***

[9] The provisions of Rule 10(6) and (7) are unambiguous and require no interpretation at all. As has been observed hereinabove, the fact is that since the order of suspension dated 11-06-2019 has not been reviewed within ninety as prescribed in Rule 10(6), it has become invalid in terms of Rule 10(7) of the CCS Rules, 1965 and therefore, it is bad in law and is liable to be quashed and set aside.

[10] In view of the above and for the reasons stated hereinabove, the instant writ petition stands allowed and consequently, the order of

suspension dated 11-06-2019 issued by the Joint Secretary (CAF & PD), Government of Manipur is quashed and set aside with no order as to costs.

JUDGE

FR/NFR

Devananda