

\$~Suppl.-4 & 11

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4968/2021 & CM APPLs.15220-15221/2021**

RAJIV KUMAR SINGH Petitioner
Through Mr.Tushar Ranjan Mohanty,
Advocate.
versus

UNION OF INDIA & ANR. Respondents
Through Mr.Abhay Prakash Sahay, Advocate.

+ **W.P.(C) 4310/2021 & CM APPL.13122/2021**

SUDARSHAN MEENA Petitioner
Through Mr.Tushar Ranjan Mohanty,
Advocate.
versus

UNION OF INDIA & ANR. Respondents
Through Mr.Abhay Prakash Sahay, Advocate.

% Date of Decision: 17th May, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

JUDGMENT

MANMOHAN,J (Oral):

1. The petitions have been heard by way of video conferencing.
2. Present writ petitions have been filed challenging the order dated 22nd December, 2020 passed by the Central Administrative Tribunal (hereinafter referred to as the 'CAT') in O.A.Nos.1311/2020 and 1441/2020 whereby the O.As filed by the petitioners challenging their suspension orders were

disposed of with a direction to the Reviewing Authority to take into account three factors mentioned in paragraph 6 of the impugned orders while considering the cases of the petitioners' in future for extension of the suspension. Since paragraph 6 in both the impugned orders is identical, paragraph 6 of the impugned order passed in O.A.No.1311/2020 is reproduced hereinbelow:-

“6. Three factors need to be taken into account. The first is that the applicant is said to be not figuring as an accused in the charge sheet filed by the CBI. If it is a fact that the name of the applicant did not figure in the charge sheet, the same needs to be taken into account, by the Reviewing Authority. The second is about the issuance of a charge memo under Rule 14 of CCS (CCA) Rules, 1965 on 09.12.2020. The question as to whether the charges are serious in nature, warranting the continuance of the applicant under suspension, deserves to be considered. The third is about the shifting of the applicant from Mumbai to Guwahati. We are of the view that as and when the case of the applicant becomes due for reviewing the suspension, the factors mentioned above shall be taken into consideration.”

3. After some arguments, it transpires that subsequent to the impugned orders, the respondents have passed orders dated 13th January, 2021 extending the suspension period of the petitioners.

4. Learned counsel for the petitioners states that the respondents while passing the subsequent orders dated 13th January, 2021 have not considered one of the factors directed to be taken into account by CAT i.e. transfer of the applicants from Mumbai to Guwahati and Bhopal respectively. He also points out that subsequent to the impugned orders, a Special Leave Petition filed by the Union of India challenging the order passed by the Orissa High Court in the case of Sandeep Yadav had been dismissed. He points out that

even a Review Petition filed by the Union of India before the Orissa High Court had been dismissed on 09th April, 2021. He contends that the aforesaid facts need to be taken into account by the respondents while passing a fresh order, even if they intend to extend the suspension period. He lastly states that the respondents have not correctly determined the subsistence allowance to be paid to the petitioners in accordance with FR 53.

5. This Court finds merit in the submission of the learned counsel for the petitioners. Consequently, this Court directs the respondents to re-consider the issue of extension of suspension of the petitioners.

6. Let a reasoned order be passed by the respondents taking into account the aforesaid arguments urged by learned counsel for the petitioners within four weeks. This Court clarifies that it has not expressed any opinion on the merits of the controversy. All the rights and contentions of the parties are left open. With the aforesaid directions, the present writ petitions along with pending applications are disposed of.

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

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MANMOHAN, J

NAVIN CHAWLA, J

MAY 17, 2021
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