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W.P.No.15505 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **17.05.2023**

CORAM:

**THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.15505 of 2023

1.The Chief Commissioner of Customs,
Chennai Customs Zone,
Customs House,
Chennai-600 001.

2. The Principal Commissioner of Customs (General)
Chennai Customs Zone,
Customs House, No.60, Rajaji Salai,
Chennai-600 001.

... Petitioners

Vs.

1.The Central Administrative Tribunal,
Chennai Bench,
Represented by its Registrar,
City Civil Court Buildings, 2nd Floor,
Chennai-600 104.

2. Shri.Pakalapati Satya Sreekanth,
(Now under suspension)
Executive Assistant(the then examiner),
Bank Realisation Certificate Section (BRC),
Export Commissionerate,
Customs House, Chennai-600 001.

...Respondents



W.P.No.15505 of 2023

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus to call for the records of the first respondent in O.A.No.310/000216/2023 dated 09/03/2023 and extension order dated 31.03.2023 and consequential order in Miscellaneous Application No.310/266/2023 (for direction) in OA.No.310/0216/2023 dated 27.04.2023, quash the same and further direct the first respondent to dispose of the Original Application without any further delay in accordance with the law laid down by this Court.

For Petitioners	: Mr.A.R.L.Sundaresan, Additional Solicitor General Assisted by V.Sundareswaran
For Respondents	: Mr.M. Aravind Subramaniam Senior Advocate for Mr.C.Vigneshwaran for second respondent

ORDER

[Order of the Court was made by C.V.KARTHIKEYAN,J.]

The procedure adopted by the Central Administrative Tribunal, Chennai Bench at Chennai in O.A.No.310/000216/2023 is put to test in the present writ petition. The second respondent in the said Original Application is the petitioner herein.

2.The leaned Additional Solicitor General, appears on behalf of the petitioner. Though notice had not been directed, we had the benefit of hearing Mr.M.Aravind Subramaniam, learned Senior Advocate on behalf of



W.P.No.15505 of 2023

the second respondent, who was the petitioner in the Original Application before the Central Administrative Tribunal.

3.We are not delving into the facts in detail since, owing to the nature of order we propose to pass primarily directing the entire issue to be agitated before the Central Administrative Tribunal, we would place a few brief facts alone.

4.The second respondent herein appears to have been placed under suspension and it is the contention of the petitioner that there are valid grounds for placing him on suspension. Normally, the maximum period of suspension is 90 days. Before that, disciplinary action should be initiated by issuing a charge memo and further action should be initiated. The petitioner herein was not able to issue the charge memo within the period of 90 days. They complain that the second respondent evaded every attempt pleading medical illness. It is stated by the learned Additional Solicitor General that the period of suspension was extended to 180 days.

5.These issues were questioned before the Central Administrative Tribunal who had incidentally granted an order of interim stay, originally on



W.P.No.15505 of 2023

WEB COPY

09.03.2023, which was then extended on 31.03.2023 till 21.04.2023. On 21.04.2023, it is contended by the learned Additional Solicitor General that the stay was not extended. It is however contended by Mr.M.Aravind Subramaniam, learned Senior Counsel that since the matter did not reach for hearing, it has to be taken that the stay is deemed to be extended. This is an issue which can be examined only by the Central Administrative Tribunal. We would be at a loss, if sought to reasons to justify either one of the two stands taken. At any rate, on 26.04.2023, M.A.No.266 of 2023 had been filed by the second respondent herein whereby he sought reinstatement. One further fact which should be stated by that on 21.04.2023, the matter was listed for further hearing on 09.06.2023.

6.It is contended by the learned Additional Solicitor General that on 27.04.2023 when M.A.No.266 of 2023 was taken up for hearing, time was sought for filing counter. However, on 27.04.2023, the order which is now complained, was passed and in that order it was observed that the second respondent herein had been out of service for more than 5 months and had been transferred to a nonsensitive post and since the suspension order had been stayed, it would amount to reinstatement of the second respondent herein. It had also been stated that it would only be appropriate that the



W.P.No.15505 of 2023

WEB COPY

second respondent is reinstated to the nonsensitive post to which he had already been transferred. That portion of the order, has given rise to the filing of the present writ petition.

7.It is contended by the learned Additional Solicitor General that since extension of stay of the suspension was not granted and the matter had been posted to 09.06.2023 for final adjudication of all issues including the reasons for suspension, the reason for non-framing of charges and for non-issuing charge memo within the stipulated period and the reason for extension of the period of suspension, passing such an interim order in M.A.No.266 of 2023 has seriously prejudiced the petitioner herein.

8.It is contended by Mr.Aravind Subramaniam, learned Senior Counsel that stay was actually in force on 26.04.2023 and therefore the impugned order came to be passed.

9. These are issues which can only be examined by the Central Administrative Tribunal.



W.P.No.15505 of 2023

WEB COPY

10.This Writ petition is a parallel proceeding and the relief of granting of stay of the suspension order or seeking explanation as to why the charge memo was not issued within a reasonable period, would be beyond the scope of jurisdiction of this Court. We can only give a direction to the Central Administrative Tribunal to take hold of all the issues on 09.06.2023 and pass orders on the basis of the records available. However, the direction that the second respondent should be reinstated, particularly when though the matter had been adjourned to 09.06.2023 it had been taken up during the interregnum period on 26.04.2023 has to be interfered with by us and to that extent, we would give a further direction that such reinstatement shall be kept on hold and all issues can be agitated on 09.06.2023 in detail before the Central Administrative Tribunal. We are confident that Administrative Tribunal would be so doing on 09.06.2023.

11.It is also stated that a contempt application had been filed by the second respondent seeking reinstatement.

12.Learned Senior Counsel on behalf of the second respondent stated that the contempt application would not be pressed but we would give the privilege to the Central Administrative Tribunal to hear the Original



W.P.No.15505 of 2023

Application, the Miscellaneous Application and the Contempt Application on 09.06.2023.

13.That portion of the order dated 27.04.2023 which directed reinstatement alone is interfered with by us since it was passed when the matter was originally listed on 09.06.2023. Such an order could have been passed on 09.06.2023 after hearing all parties.

14.One further aspect which has been stated is that an explanation was given for not filing of the charge memo by imputing the second respondent on the ground that he had continuously pleaded that he was suffering from medical ailment. He has now given a representation that he is prepared to join work. Both his statements appear to be self contradictory. Let the Central Administrative Tribunal take up all the issues on 09.06.2023.



W.P.No.15505 of 2023

WEB COPY

15.Observing as above, the writ petition stands disposed of. There will be no order as to costs. Consequently, connected W.M.P.Nos.15045,15047 & 15048 of 2023 are closed.

(C.V.K.,J.) (S.K.R., J.)
17.05.2023

Intex : Yes/No
Internet : Yes/No
mrn/ep

To
The Registrar,
The Central Administrative Tribunal,
Chennai Bench,
City Civil Court Buildings, 2nd Floor,
Chennai-600 104.



WEB COPY



W.P.No.15505 of 2023

C.V.KARTHIKEYAN, J.
and
SENTHILKUMAR RAMAMOORTHY, J.

(mrn/ep)

W.P.No.15505 of 2023

17.05.2023