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

% *Date of Decision: 13th April, 2023*

+ **W.P.(C) 4681/2023 & CM APPL. 18061/2023**

E S RANGANATHA

..... Petitioner

Through: Ms. Sonika Gill and Mr. Piyush
Sharma, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Abha Malhotra, Senior
CGSC for UOI with Ms. Priya Mishra, Govt.
Pleader and Mr. Aaditya Kapoor, Advocate
for R-1.

Mr. Sandeep Prabhakar and Mr. Vikas
Mehta, Advocates for R-2 and R-3.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present writ petition has been filed by the Petitioner seeking the following reliefs:-

“(i) That the Hon'ble Court may graciously be pleased to pass an order of issuing any appropriate writ, order/direction to the respondents for quashing the impugned order dated 10.05.2022, Order dated 27.09.2022 (Annexure P-1 & P-2) and Order dt. 5.4.2023 (Annexure P-3) declaring to the effect that the same are illegal, arbitrary and against the rules and consequently, pass an order directing the respondents to reinstate the petitioner in service immediately with all consequential benefits.

(ii) That the Hon'ble Court may further graciously be pleased to pass an order directing the respondents to treat the petitioner in service w.e.f. 08.08.2022 i.e. from the date of completion of 90 days w.e.f 10.05.2022 for all purposes and with all consequential benefits including the difference of pay and allowances.”

2. As understood from a plain reading of the averments and the grounds in the writ petition as well as from the arguments canvassed

on behalf of the Petitioner, the limited grievance of the Petitioner is that the suspension order was issued way back on 18.01.2022 and till date, neither the same has been reviewed, as required by law and nor has any charge sheet been issued within three months from the date of the suspension order and therefore, the action of Respondents No.2 and 3 in not revoking the suspension is bad in law.

3. Issue notice.

4. Ms. Abha Malhotra, learned Senior CGSC accepts notice on behalf of Respondent No.1.

5. Mr. Sandeep Prabhakar, learned counsel accepts notice on behalf of Respondent Nos. 2 and 3.

6. Mr. Prabhakar, learned counsel appearing on advance copy of the writ petition argues that there is no hard and fast rule or law which mandates that in every case, charge sheet must be issued within three months of the date of the suspension order *albeit* no doubt, this is a desirable course of action. Reliance is placed on the judgment of the Division Bench of this Court in ***Rakesh Kumar Garg v. Union of India & Ors., 2019 SCC OnLine Del 9100***, more particularly, paragraphs 11, 12, 13 and 14 thereof. It is argued that it would depend on the facts and circumstances of each case looking to the nature and substance of the allegations, the materials on which the allegations are founded and the complexity of the issues involved as to whether the suspension is to be reviewed or revoked.

7. It is further submitted by Mr. Prabhakar that the Petitioner is factually wrong in submitting that suspension has not been reviewed. Record shows that from time to time, the matter relating to suspension of the Petitioner was deliberated upon and reviewed, which is evident from the order dated 05.04.2023, which the Petitioner has himself annexed as 'Annexure P-3' to the writ petition.

8. I have heard the learned counsels for the parties and examined the aforesaid contentions.

9. It is factually correct that Petitioner was placed under suspension vide order dated 18.01.2022 on his arrest by CBI on 16.01.2022 while he was working as Director (Marketing) with Respondents No.2 and 3. Petitioner is, however, not correct in stating that the suspension order has not been reviewed as per the laid down procedure or law. Perusal of order dated 05.04.2023, which is annexed as 'Annexure P-3' to the writ petition, reflects that suspension of the Petitioner was reviewed on 10.05.2022, 05.08.2022 and lastly on 05.04.2023. Relevant part of the order is as under:-

"2. Now, therefore, after reviewing the circumstances of the case, and also in view of the fact that disciplinary proceedings are contemplated against Shri Ranganathan, the Competent Authority, in exercise of power conferred under Rule 25(5) of GAIL Employees CDA Rule 1986 has decided to continue the suspension of Shri ES Ranganathan, EDGAIL until further orders.

3. It is further ordered that till this order remains in force, the headquarters of Shri E.S. Ranganathan will be New Delhi and he shall not leave the headquarters without obtaining prior permission of the Competent Authority in GAIL."

10. The contention of the Petitioner that since no charge sheet has been issued till date, the suspension order automatically lapses and suspension is required to be revoked, is not the correct proposition of law, *albeit* it is a desirable course of action that employees should not be kept under suspension for prolonged periods and in case a charge sheet has to be issued, the action must be taken as expeditiously as possible. The Division Bench of this Court in **Rakesh Kumar Garg** (*supra*) has held as follows:-

"11. We may observe that there can be no hard and fast rule that in all cases where charge sheet is not filed within three months, of suspension, the same would mandatorily be revoked. The need for continuation of the same would have to be assessed on the facts of each case. Most relevant would be the nature and substance of allegations; the materials on which the same is founded; the position held by the concerned government officer i.e. whether he is holding

a portion of authority and influence, or he is a lower ranked employee with little or no power to influence others concerned with the matter.

12. No doubt, in the present case, the charge sheet - either in the criminal case, or for holding the departmental enquiry against the petitioner has not been issued till date. Investigation is still underway by the CBI. The communication dated 12.03.2019, sent by the CBI, requesting the Government not to reinstate the petitioner, since the investigation was underway and he may influence the witnesses to be examined further, could not be taken lightly. Similarly, the fact that the investigation is underway under the PMLA, could also not have been ignored by the Government. These are serious and valid considerations to justify the continued suspension of the petitioner.

13. Reliance placed by Mr. Bhardwaj on the aforesaid decisions, in our view, are of no avail looking to the circumstances of the case. Even in Promod Kumar IPS (supra), the Supreme Court, while referring to Ajay Kumar Choudhary (supra), wherein the Supreme Court had frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration, eventually held that the suspension of the respondent in that case would not serve any useful purpose, on the basis of the material on record of that case. The same cannot be said in the facts of the present case considering the fact that the investigation under the Prevention of Corruption Act, and the IPC is underway by the CBI, and by the Appropriate Authority under the PMLA.

14. The petitioner is a senior, highly ranked government officer and was occupying a high position at the time of his suspension. He was in a position to influence witnesses and tamper with the evidence. He has been released on bail. Pertinently, the petitioner has also not placed before us the order passed by the Court granting him bail which may have, if produced, thrown light on the allegations against the petitioner. Considering all these aspects as well, we are not satisfied that the suspension of the petitioner should not have been continued in the present case.

15. We find no reason to interfere with the impugned order.”

11. The Competent Authority has examined the suspension order in light of the allegations and other relevant factors and a conscious decision has been taken to continue the suspension of the Petitioner in view of the contemplated disciplinary proceedings and this Court finds no reason to interfere in the impugned orders at this stage. No relief can thus be granted to the Petitioner in the writ petition.

12. At this stage, learned counsel for the Petitioner submits that Petitioner has made a representation to the Chairman and Managing Director, GAIL (India) Ltd. on 02.11.2022 and the same is pending consideration and a direction be issued for disposing of the same. Mr. Prabhakar has no objection to this prayer.

13. Accordingly, the writ petition is dismissed with a limited direction to the Competent Authority to consider the representation dated 02.11.2022, in accordance with law, within a period of six weeks from today. It is left open to the Petitioner to take recourse to remedies available to him if any grievance survives, after the order disposing of his representation is communicated to him.

14. Writ petition stands disposed of along with the pending application.

APRIL 13, 2023/pkv

JYOTI SINGH, J