

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

% Date of decision: May 26, 2023

+ W.P.(C) 7415/2023 & CM APPL. 28859/2023

MEWA LAL MAHTO

..... Petitioner

Through: Mr. Tushar Ranjan Mohanty,
Ms. Payal Mohanty and Ms. Saumya
Punna, Advs.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Subhash Tanwar, CGSC
with Mr. Sandeep Mishra and
Mr. Ashish Choudhary, Advs.
for UOI

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 28859/2023

Allowed, subject to just exceptions.

Application disposed of.

W.P.(C) 7415/2023

1. The challenge in this writ petition is to an order dated April 26, 2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. 1237/2021 whereby the Tribunal while disposing of the O.A. has in paragraph 7 of the order stated as under:-

*“7. The Hon'ble High Court of Delhi in the case of **Abhishek Yadav** (supra) by following the ratio of the judgment of Hon'ble Apex Court in **Deepak Mali** (supra) held the extension of suspension after 90 days as not valid. In the present case as well, the suspension has been extended by the respondents after 90 days, and in view of the aforesaid facts and law, the OA is allowed to the extent that the suspension of the applicant beyond 90 days is held to be illegal and not sustainable in the eyes of law. The impugned order dated 07.01.2020 is set aside. The applicant shall be entitled to all consequential benefits, in accordance with relevant rules and law on the subject. The consequential benefits will be accorded to the applicant, as expeditiously as possible, and in any case within eight weeks from the date of receipt of a copy of this order.”*

2. The only submission made by Mr. Tushar Ranjan Mohanty, learned counsel for the petitioner, by drawing our attention to the prayer clause made in the O.A., more specifically, paragraph 8.4, which reads as under is that the Tribunal has not decided in what manner the suspension period need to be treated.

“8.4. to declare that the entire Period of Suspension of the Applicant shall be treated as on duty for all purposes;”

3. We agree with the submission made by Mr. Mohanty in that regard as there is no conclusion of the Tribunal as to in what manner the suspension period need to be treated. Accordingly, we deem it appropriate to remand the matter back to the Tribunal with a direction to consider the prayer made in paragraph 8.4 of the O.A. and decide the same, after hearing counsel for the parties on July 17, 2023.

4. Liberty is granted to Mr. Mohanty to place this order on the Board of

the Tribunal by way of an affidavit.

5. The petition is disposed of.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

MAY 26, 2023/ds

