



2024:DHC:8325



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 25th October, 2024*+ **W.P.(C) 7266/2024****MUNENDRA KUMAR**

.....Petitioner

Through: Mr. Soham Suryavanshi and
Mr.Ujjwal Goel, Advocates.

versus

GOVERNMENT OF NCT DELHI & ORS.

.....Respondents

Through: Ms. Avnish Ahlawat, Standing
Counsel with Mr. N.K. Singh, Ms. Laavanya
Kaushik, Ms. Aliza Alam, Mr. Mohnish Sehrawat
and Mr. Amitoj Chadha, Advocates for
Respondents/GNCTD.**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGMENT****JYOTI SINGH, J. (ORAL)**

1. This writ petition has been preferred on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India laying a challenge to the suspension order dated 05.02.2024 issued by Respondent No.1/Government of NCT of Delhi under Rule 10(1) of CCS (CCA) Rules, 1965 ('1965 Rules').

2. Facts to the extent necessary and as averred in the writ petition are that Petitioner joined the Delhi Technological University ('DTU')/ Respondent No.2 as Lecturer in Civil Engineering Department on 18.12.2007 and was promoted and re-designated as Assistant Professor on



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31.03.2016. A complaint was received against the Petitioner on 08.08.2022 from a Research Scholar Ms. X by the Chairperson of Internal Complaints Committee ('ICC'), Department of Mechanical Engineering alleging that on 08.07.2022, Petitioner had sexually assaulted her. A letter was issued by Registrar of DTU to the Petitioner on 01.09.2022 seeking his reply within ten days. Petitioner submitted a detailed reply on 08.09.2022 denying the allegations as false and frivolous and stating that the complaint was made only to tarnish the image of the Petitioner. This was followed by another reply dated 01.10.2022, wherein Petitioner reiterated that the allegations were false and afterthought only so that the Petitioner succumbs and favours the complainant in getting the Ph.D. Degree.

3. It is averred that the ICC constituted under Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ('POSH Act') submitted its report dated 14.11.2022 and thereafter Petitioner was suspended vide order dated 05.02.2024 with immediate effect invoking Rule 10(1) of 1965 Rules. In the meeting held on 14.06.2023, ICC recommended action against the Petitioner and on 03.05.2024 suspension of the Petitioner was reviewed by the Suspension Review Committee and suspension was extended for a period of 180 days w.e.f. 05.05.2024, which led to the Petitioner filing the present writ petition.

4. Learned counsel for the Petitioner argues that impugned order dated 05.02.2024, whereby Petitioner was suspended, is in violation of the law laid down by the Supreme Court in *Ajay Kumar Choudhary v. Union of India through its Secretary and Another*, (2015) 7 SCC 291, wherein it was held that the currency of a suspension order should not extend beyond 3 months if within this period chargesheet is not served on the delinquent employee



and if the chargesheet is served, reasoned order must be passed for extension of the suspension. It is further argued that it is a fundamental principle of service law that no employee can be indefinitely suspended and once a suspension order is passed, disciplinary proceedings, if initiated, must conclude within a reasonable period. In *O.P. Gupta v. Union of India and Others*, (1987) 4 SCC 328, the Supreme Court has reiterated and reaffirmed that continued suspension is injurious and prejudicial to the concerned employee as also that right to speedy trial is a fundamental right as observed by the Supreme Court in *Kartar Singh v. State of Punjab*, (1994) 3 SCC 569.

5. Learned counsel strenuously urges that in both his replies submitted to DTU, Petitioner has emphatically denied the allegations of sexual harassment of the complainant and also brought out that the complaint is motivated with a purpose that Petitioner will succumb to the demand of the complainant of getting a Ph.D. Degree as she is a below average student and was lagging behind in the research work.

6. Counsel for the Respondents *per contra* submits that there is no legal infirmity in the impugned suspension order dated 05.02.2024 and/or its continuation. After considering the gravity and seriousness of the allegations of sexual harassment against the Petitioner, ICC was constituted by DTU and the Competent Disciplinary Authority decided to place the Petitioner under suspension under Rule 10(1) of 1965 Rules. The complaint was made by a Ph.D. Scholar, who was under the supervision of the Petitioner in the Department of Civil Engineering. There is overwhelming evidence against the Petitioner, both documentary and electronic and therefore, it was decided to extend the suspension period after the same was renewed by the



Suspension Review Committee prior to the expiry of 90 days. It is not a hard and fast rule that suspension of an employee cannot be extended beyond 3 months, if during this period chargesheet is not served or that at the end of 3 months, suspension will automatically lapse.

7. Heard learned counsels for the parties and examined their submissions.

8. The primordial contention of the Petitioner, as canvassed by learned counsel, is that in view of the judgment of the Supreme Court in *Ajay Kumar Choudhary (supra)*, if the charge sheet is not issued within a period of 90 days from the date of suspension, the suspension would automatically lapse. There is no quarrel with the proposition that even though suspension is not a specified penalty but it does affect an employee and prolonged and indefinite suspension causes injury and prejudice and therefore, Courts have repeatedly asserted that disciplinary proceedings, if initiated, must be concluded within a reasonable time and an employee should not be indefinitely suspended. Prolonged suspension does become punitive in nature, more so when it is for an unjustified reason. However, it cannot be overlooked that the employer has a right to suspend an employee to refrain him from perpetuating the alleged misconduct and/or destroying the evidence. Each case, therefore, turns on its own facts and circumstances and no hard and fast rule can be laid down that only because chargesheet has not been issued within 90 days of initial suspension period or even during extended suspension period for a justified reason, the suspension period would automatically lapse. In this context, it would be useful to refer to the observations of the Supreme Court in *State of Orissa through its Principal Secretary, Home Dept. v. Bimal Kumar Mohanty, (1994) 4 SCC 126*, as



follows:

“13. It is thus settled law that normally when an appointing authority or the disciplinary authority seeks to suspend an employee, pending inquiry or contemplated inquiry or pending investigation into grave charges of misconduct or defalcation of funds or serious acts of omission and commission, the order of suspension would be passed after taking into consideration the gravity of the misconduct sought to be inquired into or investigated and the nature of the evidence placed before the appointing authority and on application of the mind by disciplinary authority. Appointing authority or disciplinary authority should consider the above aspects and decide whether it is expedient to keep an employee under suspension pending aforesaid action. It would not be as an administrative routine or an automatic order to suspend an employee. It should be on consideration of the gravity of the alleged misconduct or the nature of the allegations imputed to the delinquent employee. The Court or the Tribunal must consider each case on its own facts and no general law could be laid down in that behalf. Suspension is not a punishment but is only one of forbidding or disabling an employee to discharge the duties of office or post held by him. In other words it is to refrain him to avail further opportunity to perpetrate the alleged misconduct or to remove the impression among the members of service that dereliction of duty would pay fruits and the offending employee could get away even pending inquiry without any impediment or to prevent an opportunity to the delinquent officer to scuttle the inquiry or investigation or to win over the witnesses or the delinquent having had the opportunity in office to impede the progress of the investigation or inquiry etc. But as stated earlier, each case must be considered depending on the nature of the allegations, gravity of the situation and the indelible impact it creates on the service for the continuance of the delinquent employee in service pending inquiry or contemplated inquiry or investigation. It would be another thing if the action is actuated by mala fides, arbitrary or for ulterior purpose. The suspension must be a step in aid to the ultimate result of the investigation or inquiry. The authority also should keep in mind public interest of the impact of the delinquent's continuance in office while facing departmental inquiry or trial of a criminal charge.”

9. Learned counsel for the Petitioner has vehemently relied on the judgment of the Supreme Court in **Ajay Kumar Choudhary (supra)** to contend that on the failure of the employer to issue a chargesheet within 90 days from the date of the suspension order, the suspension order would lapse. This contention, in my considered view, only deserves to be rejected



for the simple reason that this proposition canvassed by the Petitioner does not even flow from a plain reading of the said judgment. In paragraph 21 of the said judgment, the Supreme Court has directed that currency of the suspension order should not extend beyond three months, if within this period memorandum of charges is not served on the delinquent employee. This, in my view, does not lay down an absolute proposition of law that in every case, failure to issue a charge sheet within three months would lead to the suspension order coming to an end, automatically. In fact, in para 22 of the said judgment, the Supreme Court, noting that charge sheet had now been issued to the Appellant, permitted him to challenge his continued suspension, if so advised and this was despite the fact that the charge sheet was issued much beyond a period of 08 months.

10. It may be relevant to note that a Division Bench of this Court in ***Govt. of NCT of Delhi v. Dr. Rishi Anand, 2017 SCC OnLine Del 10506***, had the occasion to consider the same issue and after going through the judgment in ***Ajay Kumar Choudhary (supra)***, the Division Bench held as follows:—

“13. We have heard learned counsels for the parties and considered their submissions. We have also perused the decision of the Supreme Court in Ajay Kumar Choudhary (supra). In Ajay Kumar Choudhary (supra), the appellant had assailed his suspension even before issuance of the charge sheet. He had been suspended with effect from 30.09.2011 and the Supreme Court observed that the same “has been extended and continued ever since”.

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16. It appears that before the Supreme Court rendered its decision on 16.02.2016, the charge sheet had been served on the appellant - though from a reading of the decision it is not clear as to on what date the same was so served. This development was taken note of by the Supreme Court in its decision. In para 22 of the decision, the Supreme Court observed:

“22. So far as the facts of the present case are concerned, the appellant has now been served with a charge-sheet, and, therefore, these directions may not be relevant to him any longer. However, if



the appellant is so advised he may challenge his continued suspension in any manner known to law, and this action of the respondents will be subject to judicial review”.

(emphasis supplied)

17. Thus, even though the charge sheet had not been served on the appellant Ajay Kumar Choudhary when he initially assailed his suspension, or even till the hearing of the appeal took place before the Supreme Court on 09.09.2014 (it was only between 09.09.2014 and the date of decision on 16.02.2015 that the charge sheet appears to have been served), the Supreme Court held that since the charge sheet had been served on the appellant, therefore, the directions issued by it would not be relevant to his case. Despite the fact that the appellant Ajay Kumar Choudhary had remained under suspension right from 30.09.2011, the Supreme Court did not set aside the order of suspension since, in the meantime, Ajay Kumar Choudhary had been served with a charge sheet sometime after 09.09.2014, i.e. nearly three years after his suspension.

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19. There can be no quarrel with the proposition that a government servant who is suspended in contemplation of a disciplinary proceedings or criminal proceedings under Rule 10 of the CCS (CCA) Rules, should not be kept under suspension indefinitely or unnecessarily. It is for this reason that a review of the on-going suspension is required to be undertaken by the government at regular intervals under Rule 10(6) of the CCS (CCA) Rules, which reads as under:

“10(6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority 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.”

(emphasis supplied)

20. It may not always be possible for the government to serve the charge sheet on the officer concerned within a period of 90 days, or even the extended period, for myriad justifiable reasons. At the same time, there may be cases where the conduct of the government servant may be such, that it may be undesirable to recall the suspension and put him in position once again, even after sanitising the environment so that he may not interfere in the proposed inquiry. On a reading of Ajay Kumar Choudhary (supra), we are of the view that the Supreme Court has not



*denuded the Government of its authority to continue/extend the suspension of the government servant - before, or after the service of the charge sheet - if there is sufficient justification for it. The Supreme Court has, while observing that the suspension should not be extended beyond three months - if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer, has stopped short of observing that if the charge memo/charge-sheet is not issued within three months of suspension, the suspension of the government servant shall automatically lapse, without any further order being passed by the Government. No such consequence - of the automatic lapsing of suspension at the expiry of three months if the charge memo/charge-sheet is not issued during that period, has been prescribed. In *Kailash v. Nanhku*, (2005) 4 SCC 480 : AIR 2005 SC 2441, while examining the issue : whether the obligation cast on the defendant to file the written statement to the plaint under Rule (1) of Order 8 CPC within the specified time was directory or mandatory i.e. whether the Court could extend the time for filing of the written statement beyond the period specified in Rule 1 of Order 8, the Supreme Court held that the Court had the power to extend the time for filing of the written statement, since there was no consequence prescribed flowing from non-extension of time. In para 29 of this decision, the Supreme Court observed as follows:*

“29. It is also to be noted that though the power of the court under the proviso appended to Rule 1 Order 8 is circumscribed by the words “shall not be later than ninety days” but the consequences flowing from non-extension of time are not specifically provided for though they may be read in by necessary implication. Merely because a provision of law is couched in a negative language implying mandatory character, the same is not without exceptions. The courts, when called upon to interpret the nature of the provision, may, keeping in view the entire context in which the provision came to be enacted, hold the same to be directory though worded in the negative form.”

(emphasis supplied)

21. The direction issued by the Supreme Court is that the currency of the suspension should not be extended beyond three months, if the charge memorandum/charge-sheet is not issued within the period of 3 months of suspension. But it does not say that if, as a matter of fact, it is so extended it would be null and void and of no effect. The power of the competent authority to pass orders under Rule 10(6) of the CCS (CCA) Rules extending the suspension has not been extinguished by the Supreme Court. The said power can be exercised if good reasons therefor are forthcoming.

*22. The decision of the Supreme Court in *Ajay Kumar Choudhary* (supra) itself shows that there cannot be a hard and fast rule in this regard. If that were so, the Supreme Court would have quashed the suspension of Ajay*



Kumar Choudhary. However, in view of the fact that the charge memo had been issued to Ajay Kumar Choudhary - though after nearly three years of his initial suspension, the Supreme Court held that the directions issued by it would not be relevant to his case.

23. From a reading of the decision in Ajay Kumar Choudhary (supra) and Rule 10 of the CCS (CCA) Rules, it emerges that the government is obliged to record its reasons for extension of the suspension which, if assailed, would be open to judicial scrutiny - not as in an appeal, but on grounds available in law for judicial review of administrative action.

24. Learned counsel for the respondent has argued that since the charge sheet/charge memo was not served on the respondent within the initial 90 days of suspension, the suspension of the respondent automatically lapsed. Under Rule 10 of the CCS (CCA) Rules, there is no automatic reinstatement of a suspended government servant upon expiry of 90 days, or the extended period of suspension if, by the date of expiry of such suspension/extended period of suspension, the charge sheet is not issued. The only circumstance in which the suspension of the government servant lapses automatically is the one contained in sub-rule (7) of Rule 10. The same reads as under:

“(7) An order of suspension made or deemed to have been made under sub-rules (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.”

(Emphasis supplied)

25. Thus, it is only if the suspension is not extended after review within the initial period of 90 days (in a case to which sub-rule (2) does not apply), that the suspension of the government servant would lapse automatically. In all other cases, the suspension would continue unless and until it is modified or revoked by the competent authority though it would not imply that there is no requirement to conduct periodic renewal of the suspension. This is so provided in sub-rule (5)(a) of Rule 10, which reads as follows:

“10(5)(a) Subject to the provisions contained in sub-rule (7), an order of suspension made or deemed to have been made under this



rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.”

(Emphasis supplied)

26. Thus, there is no force in the submission of the respondent that the suspension of the respondent automatically lapsed since the charge sheet was not issued within the initial period of 90 days. Pertinently, the respondents suspension was reviewed and extended by the government within the initial period of 90 days on 27.09.2016. Thus, the suspension of the respondent did not lapse under sub rule (7) of Rule 10 CCS (CCA) Rules.”

11. The above view was reiterated by another Division Bench of this Court in **Vikash Kumar v. Union of India and Others, 2023 SCC OnLine Del 5402** and relying upon the judgment in **Rishi Anand (supra)** and another judgment of the Madras High Court in **P. Kannan v. Commissioner for Municipal Administration and Others, 2022 SCC OnLine Mad 1154**, where identical view has been taken, the Division Bench held as follows:

“11.1. The observations in paras 20 to 23 in Rishi Anand case [State (NCT of Delhi) v. Rishi Anand, 2017 SCC OnLine Del 10506] are also apt to be noticed and clearly spell out that power of competent authority to pass orders of suspension have not been extinguished in Ajay Kumar Choudhary case [Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 : (2015) 2 SCC (L&S) 455] merely because the charge-sheet is not issued within three months of suspension but the said power can be exercised if good reasons are forthcoming: (Rishi Anand case [State (NCT of Delhi) v. Rishi Anand, 2017 SCC OnLine Del 10506] SCC OnLine Del paras 20-23)

“20. It may not always be possible for the Government to serve the charge-sheet on the officer concerned within a period of 90 days, or even the extended period, for myriad justifiable reasons. At the same time, there may be cases where the conduct of the government servant may be such, that it may be undesirable to recall the suspension and put him in position once again, even after sanitising the environment so that he may not interfere in the proposed inquiry. On a reading of Ajay Kumar Choudhary case [Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 : (2015) 2 SCC (L&S) 455] , we are of the view that the Supreme Court has not denuded the Government of its authority to continue/extend the suspension of the government servant before,



or after the service of the charge-sheet if there is sufficient justification for it. The Supreme Court has, while observing that the suspension should not be extended beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer, has stopped short of observing that if the charge memo/charge-sheet is not issued within three months of suspension, the suspension of the government servant shall automatically lapse, without any further order being passed by the Government. No such consequence of the automatic lapsing of suspension at the expiry of three months if the charge memo/charge-sheet is not issued during that period, has been prescribed....

21. The direction issued by the Supreme Court is that the currency of the suspension should not be extended beyond three months, if the charge memorandum/charge-sheet is not issued within the period of 3 months of suspension. But it does not say that if, as a matter of fact, it is so extended it would be null and void and of no effect. The power of the competent authority to pass orders under Rule 10(6) of the CCS (CCA) Rules extending the suspension has not been extinguished by the Supreme Court. The said power can be exercised if good reasons therefor are forthcoming.

22. The decision of the Supreme Court in Ajay Kumar Choudhary case [Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 : (2015) 2 SCC (L&S) 455] itself shows that there cannot be a hard and fast rule in this regard. If that were so, the Supreme Court would have quashed the suspension of Ajay Kumar Choudhary. However, in view of the fact that the charge memo had been issued to Ajay Kumar Choudhary though after nearly three years of his initial suspension, the Supreme Court held that the directions issued by it would not be relevant to his case.

23. From a reading of the decision in Ajay Kumar Choudhary case [Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 : (2015) 2 SCC (L&S) 455] and Rule 10 of the CCS (CCA) Rules, it emerges that the Government is obliged to record its reasons for extension of the suspension which, if assailed, would be open to judicial scrutiny not as in an appeal, but on grounds available in law for judicial review of administrative action."

11.2. *The ratio as laid down in Rishi Anand case [State (NCT of Delhi) v. Rishi Anand, 2017 SCC OnLine Del 10506] has also been reiterated by this Court in Dinesh Bishnoi v. Union of India [Dinesh Bishnoi v. Union of India, 2023 SCC OnLine Del 4023].*

12. *The observations made by the Tribunal in para 14 of the impugned order referring to P. Kannan v. Municipal Corpn., Salem [P. Kannan*



v. Municipal Corpn., Salem, 2022 SCC OnLine Mad 1154] which considered the ratio in Ajay Kumar Choudhary v. Union of India [Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 : (2015) 2 SCC (L&S) 455] are also relevant and may be beneficially reproduced: (Vikash Kumar case [Vikash Kumar v. Union of India (I), 2022 SCC OnLine CAT 2097] , SCC OnLine CAT para 14)

“14. High Court of Judicature at Madras in a very recent judgment delivered on 15-3-2022 has also considered most of the previous, judgments relied upon by the applicant, including Ajay Kumar Choudhary case [Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 : (2015) 2 SCC (L&S) 455] , and held as under: (SCC OnLine Mad paras 34 and 35)

‘34. Referring to the aforesaid judgment of the Supreme Court, a Division Bench of this Court in TANGEDCO Ltd v. Mohan Kumar [TANGEDCO Ltd v. Mohan Kumar, 2022 SCC OnLine Mad 8787] , held as under: (SCC OnLine Mad paras 20 and 21)

“20. In Bimal Kumar Mohanty case [State of Orissa v. Bimal Kumar Mohanty, (1994) 4 SCC 126 : 1994 SCC (L&S) 875 : (1994) 1 LLN 889] , the Supreme Court held that suspension is not a punishment, but only one for forbidding or disabling an employee to discharge the duties of office or post held by him. It is with the direction that each case may be considered on its facts and taking into account the gravity of the offence or the misconduct. The interference with the order of suspension should not be driven in reference to a judgment, but needs to be determined on facts and after considering the rules governing the delinquent. Judicial review in such matters should be minimal. In the instant case, the allegation against the delinquent is quite serious, as he not only demanded but accepted bribe and was caught red-handed by the Anti-Corruption Department. The aforesaid were the relevant facts, but were not considered by the learned Single Judge while causing interference with the order of suspension. It is even after ignoring the earlier judgment of the Division Bench in TANGEDCO Ltd. v. A. Srinivasan [TANGEDCO Ltd. v. A. Srinivasan, 2020 Lab IC 3814] , wherein it was categorically held that the judgment of the Supreme Court in Ajay Kumar Choudhary case [Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 : (2015) 2 SCC (L&S) 455] does not evolve a general principle for causing interference with the order of suspension if charge-sheet is not served or charge



memo is not filed within three months of the order of suspension. The finding of the Division Bench of this Court in A. Srinivasan case [TANGEDCO Ltd. v. A. Srinivasan, 2020 Lab IC 3814] has even been ignored, though binding in nature.

21. In view of the above, we find reasons to cause interference with the judgment of the learned Single Judge as none of the judgments cited by learned counsel for the writ petitioner/non-appellant provide assistance on the issue, rather those judgments have been given referring to the judgment in Ajay Kumar Choudhary case [Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 : (2015) 2 SCC (L&S) 455] , without analysing the fact that even in Ajay Kumar Choudhary case [Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 : (2015) 2 SCC (L&S) 455] , the order of suspension was not interfered with by the Supreme Court, though the charge-sheet in the said case was filed after three months since the date of initial suspension of the delinquent employee.”

(emphasis supplied)

35. For the foregoing reasons, the reference is answered by holding that:

(i) The judgment of the Supreme Court in Ajay Kumar Choudhary case [Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 : (2015) 2 SCC (L&S) 455] , does not lay down absolute proposition of law that an order of suspension cannot be continued beyond the period of three months if the memorandum of charges/charge-sheet has not been served within three months, or if memorandum of charges/charge-sheet is served without reasoned order of extension.

(ii) The judgment in TANGEDCO Ltd. v. R. Balaji [TANGEDCO Ltd. v. R. Balaji WA No. 68 of 2021, decided on 27-8-2021 (Mad)] , has no reference to the earlier judgments of co-equal strength and is thereby rendered per incuriam.

(iii) The issue of challenge to the order of suspension should be analysed on the facts of each case, considering the gravity of the charges and the rules applicable.

(iv) Revocation of suspension with a direction to the employer to post the delinquent in a non-sensitive post cannot be endorsed or directed as a matter of course. It



has to be based on the facts of each case and after noticing the reason for the delay in serving the memorandum of charges/charge-sheet.

The abovementioned judgments clearly hold that suspension can be continued depending upon gravity of offences. In the present case, the applicant is under investigation in various cases by the CBI and Vigilance Organisation. His prosecution and also major penalty action is contemplated against him. The charges for which he is under investigation are of very serious nature and, therefore, his continued suspension does not call for any interference by this Tribunal’.”

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14. Considering the serious nature of charges, which have remained under investigation by various agencies against the petitioner and public interest, we are unable to accept the contention raised by learned counsel for the petitioner, that since the petitioner has not been responsible for delay in conduct of investigation or other proceedings, he deserves to be reinstated.

15. We are of the considered opinion that no grounds are made out for interference in the impugned order passed by the Tribunal. The revocation of suspension and reinstatement of the petitioner, in the peculiar circumstances cannot be directed merely because the charge-sheet could not be issued to the petitioner. Suffice to state that sufficient reasons have been pointed out by the respondents for delay in issuing of charge-sheet.”

12. In ***P. Kannan (supra)***, a three-judge Bench of the Madras High Court answered the reference by holding that judgement of the Supreme Court in ***Ajay Kumar Choudhary (supra)*** does not lay down an absolute proposition of law that an order of suspension cannot be continued beyond a period of three months, if chargesheet is not served within the said period and that issue of challenge to the suspension order should be analysed on the facts of each case. This Court in ***Palash Goswami vs. Union of India and Others, 2023 SCC OnLine Del 3758***, has also taken a view that merely because chargesheet is not issued within three months from the date of suspension of an employee, the suspension will not automatically lapse *albeit* it may be



reiterated that suspension should not be indefinitely or unnecessarily prolonged and law mandates that periodic review of ongoing suspension must be undertaken by the employer.

13. Conjoint reading of the aforementioned judgments can only lead to a conclusion that Petitioner is not correct in his submission that only because the chargesheet has not been issued, the suspension order dated 05.02.2024 deserves to be quashed. It needs to be noted that during the pendency of the writ petition, the Suspension Review Committee in its meeting dated 22.04.2024 considered the suspension of the Petitioner as also the fact that chargesheet has not been issued but based on material placed before it, recommended extension of suspension by a further period of 180 days from 05.05.2024. There is no challenge to this order by the Petitioner but, be that as it may, this period is yet to expire and it is not known and cannot be guessed as to what decision the Suspension Review Committee will take and therefore, this Court is refraining from commenting on merits of the order dated 03.05.2024. Needless to state that Petitioner will have a fresh cause of action in case the suspension is further extended and can take his remedies in law. No cause for interference in the impugned suspension order dated 05.02.2024 is made out by the Petitioner.

14. At this stage, learned counsel for the Petitioner submits that Petitioner has not been paid Subsistence Allowance for two months. DTU shall look into this aspect of the matter and it goes without saying that Petitioner is entitled to Subsistence Allowance during the suspension period and hence if any amount is outstanding, the same shall be released to the Petitioner as expeditiously as possible.



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15. For all the aforesaid reasons, there is no merit in the writ petition and the same is dismissed.

OCTOBER 25, 2024
B.S. Rohella

JYOTI SINGH, J