



2024:DHC:4379



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

% Judgment delivered on: 21.05.2024

+ W.P.(C) 7334/2024
RAHUL KUMAR MAURYA Petitioner

versus

INDIAN RAILWAY FINANCE CORPORATION LTD
..... Respondent**Advocates who appeared in this case:**For the Petitioner : Mr. Piyush Sharma, Mr. Shivam Dubey,
Mr. Anuj Kumar Sharma and Mr.
Suresh Kumar Garg, Advocates.

For the Respondents : Ms. Jaya Tomar, Advocate

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]**

1. This is a writ petition under Article 226 of the Constitution of India, 1950, seeking *inter alia* quashing/setting aside of the impugned suspension order dated 15.12.2023 on the ground that the same is arbitrary and contrary to the law laid down by the Supreme Court, as also for non renewal of the same within the time as stipulated in the DoPT O.M. and the judgment of the Supreme Court in *Ajay Kumar Choudhary vs. Union of India through its Secretary and Another* reported in (2015) 7 SCC 291.

2. Mr. Piyush Sharma, learned counsel for the petitioner submits that by the order dated 15.12.2023, the petitioner was placed under



suspension with immediate effect without even indicating as to what are the reasons for such suspension. He draws attention of the Court to the CDA Rules of the respondent, particularly Rule 21 which stipulates various provisions for suspension of an employee.

3. According to the said Rule 21(1), the Appointing Authority or any other authority to whom it is subordinate or the Disciplinary Authority or any other authority empowered in that behalf by the Management may place any employee under suspension where disciplinary proceedings against him is contemplated or is pending. He submits that other two stipulations in sub para (b) and sub para (c) of sub rule (1) of Rule 21 are not applicable to the present case. He thereafter submits that the impugned suspension order is contrary to Clause (a) of sub rule (1) of Rule 21 as is apparent from a plain reading of the impugned order.

4. He submits that in any case, since 15.12.2023, there has been no renewal of the order of suspension which ought to have ordinarily expired within 90 days of issuance of the order dated 15.12.2023. He very fairly submits that though Rule 21 of the said Rules does not specify any time limit, the same cannot be continued indefinitely.

5. He also submits that DoPT O.M. dated 14.11.2022 has to be considered.

6. He draws attention of this Court to Clause (H) of the said O.M. in respect of review of suspension. According to him, sub clause (ii) of Clause (H) limits the first suspension to a period of 90 days from the effective date of suspension which has to be reviewed, modified or revoked within 90 days by the Review Committee constituted for the said purpose.



7. According to Mr. Sharma, no such review by the Review Committee has ever been held in the case of the petitioner. He submits that the Supreme Court also in the judgment of **Ajay Kumar Choudhary** (supra) particularly in para 14 reiterated the same principle and had quashed the suspension order in that case.

8. *Per contra*, Ms. Jaya Tomar appearing for the respondent submits that there are serious allegations against the petitioner. She also submits that the office of the respondent is a very compact, consisting of a very limited number of staff and as such, the presence of the petitioner may impede the preliminary investigation being carried out by the Department.

9. She submits that even otherwise, Rule 21 does not specify any time limit and as such, applying the aforesaid DoPT would not arise. She also submits that apart from Clause (a) of sub rule (1) of Rule 21, according to the respondent Department, even Clause (c) of sub rule (1) of Rule 21 is applicable in the present case which stipulates a situation where in the opinion of the Suspending Authority, the employee has engaged himself in activities prejudicial to the interest of the Corporation/State.

10. Ms. Tomar also vehemently opposes the applicability of the ratio laid down by the Supreme Court in **Ajay Kumar Choudhary** (supra) on the strength that the facts of both the cases are entirely different and the same cannot be applied to the facts arising in the present case.

11. Be that as it may, it is not disputed that the petitioner had submitted his representations on 01.01.2024, 15.03.2024 and 04.04.2024 and yet the same have not been disposed of by the Competent Authority



of the respondent.

12. Keeping in view the fact that the suspension has been directed under the Rule 21(1) (a) and according to the respondent, under Rule 21(1)(c), the respondent has to first dispose of the representations of the petitioner in accordance with the extant rules.

13. The O.M. dated 04.11.2022 may come into application purely because Rule 21 does not stipulate the outer limit/ time period till what time the suspension would continue and it cannot be a state of continuation of suspension order in perpetuity. As such, some time-limit has to be read into the said Rule. The strength may be drawn from the sub clause (2) of Clause (H) of the said O.M. in regard to the review of such suspension.

14. It would be all the more reason for the respondent to dispose of the representations filed by the petitioner in accordance with these Rules and keeping in view the DoPT O.M., if found applicable. This exercise be carried out within three weeks from the date of receipt of the order.

15. Needless to say that the order should be speaking and containing reasons for such continuation. Copy of the order disposing of the representations of the petitioner be furnished to the petitioner within one week thereafter.

16. The petitioner would be at liberty to challenge the same should the need arise.

17. The petition is disposed of in the above terms with no order as to costs.

TUSHAR RAO GEDELA, J

MAY 21, 2024/ns