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

Date of decision: 17.07.2025

+ W.P.(C) 16854/2024 & CM APPL. 7187/2024, CM APPL. 71390/2024, CM APPL. 26074/2025

UNION OF INDIA AND OTHERSPetitioners

Through: Mr. Vikramjit Bannerjee,
learned ASG with Mr. Ruchir
Mishra, Mr. Mukesh Kr.
Tiwari, Mr. Kartik Dey, Mr.
Shrisha Chandra, Mr. Suraj
Mishra & Ms. Reba Jena
Mishra, Advs.

Versus

ARAVA GOPI KRISHNARespondent

Through: Mr. M.K. Bhardwaj & Mr.
Praveen Kaushik, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

1. This petition has been filed challenging the Order dated 08.08.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal') in OA No. 2972 of 2023, titled *Arava Gopi Krishna v. Union of India & Ors.*, allowing the said OA filed by the respondent herein with the following directions:

"18. In light of the above, the present OA is allowed. We, accordingly, quash and set aside the impugned suspension order dated 22.08.2022, with subsequent extensions vide



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orders dated 19.10.2022, 10.02.2023, 16.08.2023, as well as later orders. Consequent upon setting aside the suspension order, the respondents shall re-instate the applicant as expeditiously as possible and, in any case, within a period of four weeks from the date of receipt of a certified copy of this Order. The applicant is also entitled to consequential benefits flowing from setting aside of the suspension order, as per Rules.”

2. At the outset, the learned Additional Solicitor General (hereinafter referred to as ‘ASG’) submits that the directions of the learned Tribunal in setting aside the Suspension Order dated 22.08.2022 and the subsequent Orders of extensions thereof dated 19.10.2022, 10.02.2023, 16.08.2023 and later Orders are incorrect.

3. The learned counsel appearing for the respondent submits that he is confining his challenge to the Orders of extension of suspension beyond a period of one year of the original Suspension Order dated 22.02.2022.

4. Having recorded the above, to begin with, we shall note the brief background of the facts in which the present petition arises.

5. The respondent was placed under suspension by the petitioners *vide* an Order dated 22.08.2022, relevant portion of which, reads as under:

“ WHEREAS, departmental proceedings against Shri Arava Gopi Krishna, IAS (AGMUT:2012), are contemplated;

NOW THEREFORE, the President of India, in exercise of the powers conferred under Rule 3 of All India Services (Discipline and Appeal) Rules, 1969, hereby places Shri Arava Gopi Krishna, IAS (AGMUT:2012)



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*under suspension with immediate effect;
xxxxx”*

(Emphasis supplied)

6. The aforesaid period of suspension was further extended by the petitioners, *vide* Orders dated 19.10.2022, 10.02.2023, 16.08.2023, 09.02.2024 and 07.08.2024.

7. Aggrieved thereof, the respondent filed the above OA before the learned Tribunal, contending therein that the extension of suspension has been done without application of mind and in violation of the Office Memorandum (O.M.) dated 23.08.2016 issued by the Department of Personnel and Training (DoP&T).

8. During the pendency of the above OA, the respondent also brought to the notice of the learned Tribunal that a charge-sheet has since been filed by the Central Bureau of Investigation (hereinafter referred to as ‘CBI’) on the FIR registered, wherein, as far as the respondent is concerned, in paragraph No. 16.33, it has been observed as under:

“16.33- During the investigation, no incriminating evidence has been found against Sh. Arva Gopi Krishna, the then Commissioner Excise, GNCT of Delhi, who is an FIR named accused person to indicate any criminal misconduct on his part. It has been revealed that he is having no role in the incorporation of favourable provisions in the Excise Policy and has followed the directions of GoM and the accused Manish Sisodia, the then Dy. CM & Excise Minister. His statement as a witness recorded u/ s 161 Cr. PC & 164 Cr. PC are relevant to prove the malafide intention of the accused Manish Sisodia in the matter of formulation and implementation of the Excise



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Policy 2021-22. In view of the above, the name Sh. Arva Gopi Krishna has been kept in Column No. 12 of the Supplementary Chargesheet and he has been cited as a witness."

9. Subsequently, on hearing the learned counsels for the parties, the learned Tribunal by the Impugned Order observed that the respondent cannot be treated as an accused in the charge-sheet. It held that in spite of the same, his period of suspension has been extended, though no disciplinary proceedings have been initiated against him. Therefore, placing reliance on the Judgments of the Supreme Court in **Ajay Kumar Choudhary v. Union of India**, 2014 SCC OnLine SC 1662, and in **State of T.N. v. Promod Kumar**, (2018) 17 SCC 689, the learned Tribunal went ahead and set aside the Impugned Suspension Order as also the Orders extending the period of suspension.

10. The learned ASG points out that in terms of the All India Services (Discipline and Appeal) Rules, 1969 ('the Rules'), an officer can be suspended where the disciplinary proceedings against him are either contemplated or are pending. In the present case, the respondent was placed under suspension as the disciplinary proceedings against him was contemplated on grave charges of corruption.

11. He submits that where the charges are of corruption, Rule 3(1C) of the Rules provides that the period of suspension shall not exceed two years, and can only be continued beyond the period of two years on the recommendations of the Central Ministry's Review Committee. Furthermore, the period during which the disciplinary proceedings



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remain stayed due to the Orders of Court of law, shall be excluded from this limit of two years.

12. He further submits that Rule 3(1C) of the Rules has to be read along with Rule 3(1) of the Rules and, therefore, shall be applicable even where the officer is suspended in anticipation of a disciplinary proceeding being initiated against the officer.

13. He also submits that in the present case, the learned Tribunal, *vide* its *interim* Order dated 11.10.2023, had granted an *interim* stay on further extension of the Suspension Order. The same had been challenged by the petitioners before this Court by way of a Writ Petition, being W.P.(C). No. 1123/2024. This Court, by its *interim* Order dated 25.01.2024, granted a stay on the operation of the Order of the learned Tribunal and thereafter, with the consent of the learned counsel for the respondent, *vide* an Order dated 24.07.2024, remitted the matter back to the learned Tribunal, directing it to decide the OA expeditiously. He submits that, therefore, this period also needs to be excluded for determining the period of extension of the suspension.

14. On the other hand, the learned counsel for the respondent submits that in the present case, the respondent was not suspended on any Articles of Charge being issued against him. In fact, till date, memorandum of charges has not been issued to the respondent, though it may be in contemplation of the petitioners.

15. He further submits that in such circumstances, Rule 3(1C) of the Rules will have no application. He submits that the period of suspension, therefore, cannot exceed one year without any disciplinary



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proceedings having been initiated against the respondent in accordance with Rule 3(1B) of the Rules. He submits that even the period during which the petitioners were restrained from issuing any order of suspension, cannot also be excluded.

16. We have considered the submissions made by learned counsels for the parties.

17. It is not disputed that the Order dated 22.08.2022, placing the respondent under suspension, was on the ground that the departmental proceedings against him are contemplated. It is also not disputed that though a Show Cause Notice for initiation of departmental proceedings has been issued to the respondent and response thereto given by the respondent, a final decision thereon is yet to be taken by the petitioners and the memorandum of charge is yet to be issued. Therefore, the departmental proceedings have not been yet started.

18. Rule 3 (1) of the Rules, reads as under:

“ 3. Suspension -

(1) If, having regard to the circumstances in any case and, where articles of charge have been drawn up, the nature of the charges, the Government of a State or the Central Government, as the case may be, is satisfied that it is necessary or desirable to place under suspension a member of the Service, against whom disciplinary proceedings are contemplated or are pending, that Government may-

(a) if the member of the Service is serving under that Government, pass an order placing him under suspension, or

(b) if the member of the Service is serving under another Government request that



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Government to place him under suspension, pending the conclusion of the disciplinary proceedings and the passing of the final order in the case.

(c) IAS officers working under Central Government shall only be suspended on the recommendations of the Central Review Committee as amended with the approval of Minister-in-charge, Department of Personnel & Training;

Provided that, in cases, where there is a difference of opinion-

(i) Between two state Governments, the matter shall be referred to the Central Government for its decision;

(ii) between a State Government and the Central Government, the opinion of the Central Government shall prevail:

Provided further that the Chief Secretary, Director General of Police and the Principal Chief Conservator of Forests, who are the heads of the respective Services, shall not be placed under suspension without obtaining prior approval of the Central Government:

Provided also that, where a State Government passes an order placing under suspension a member of the Service against whom disciplinary proceedings are contemplated, such an order shall not be valid unless, before the expiry of a period of thirty days from the date from- which the member is placed under suspension, or such further period not exceeding thirty days as may be specified by the Central Government for reasons to be recorded in writing, either disciplinary proceedings are Initiated against him or ,he order of suspension is confirmed by the Central Government.”

19. A reading of the above would show that the Government of a



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State or the Central Government, as the case may be, may place an officer under suspension if it is satisfied that it is necessary or desirable to do so, and where disciplinary proceedings are contemplated or are pending.

20. Before the learned Tribunal it was the learned counsel for the petitioner who relied upon Rule 3(1B), which reads as under:

“3. Suspension

.....

(1B) The period of suspension of a member of the Service on charges other than corruption shall not exceed one year and the inquiry shall be completed and appropriate order shall be issued within one year from the date of suspension failing which the suspension order shall automatically stand revoked:

Provided that the suspension can be continued beyond one year only on the recommendations of the Central Ministry's Review Committee:

Provided further that the period during which the disciplinary proceedings remain stayed due to orders of a Court of Law, shall be excluded from this limit of one year.”

21. On the other hand, the learned ASG, before us, has relied upon Rule 3 (1C) of the Rules, which reads as under:

“(1C) The period of suspension of a member of the Service on charges of corruption shall not exceed two years and the inquiry shall be completed and appropriate order shall be issued within two years from the date of suspension failing which the suspension order shall automatically stand revoked:

Provided that the suspension can be continued beyond two years only on the recommendations of the Central Ministry's



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Review Committee:

Provided further that the period during which the disciplinary proceedings remain stayed due to orders of a Court of Law, shall be excluded from this limit of two years.”

21. A reading of the above provisions would show that while Rule 3(1B) applies to a case where a member of the services has been placed under suspension “on charges other than corruption”, in which case the period of suspension shall not exceed one year and within which, the inquiry must be completed and appropriate orders must be issued, Rule 3(1C) is applicable where the officer has been placed under suspension on “charges of corruption”, in which case the period of suspension shall not exceed a period of two years and the inquiry should be completed and appropriate orders must be passed within the said period.

22. In the present case, as rightly contended by the learned counsel for the respondent, the charges are yet to be framed. Though, there is an inquiry in contemplation, this Court cannot today hazard a guess on what charges the respondent would actually be charged with, if at all. Therefore, neither Rule 3(1B) nor 3(1C) will have any application to the facts of the present case.

23. The fact remains that no charge-sheet has been issued against the respondent, though almost three years period has since passed when he was first placed under suspension. Even in the charge-sheet filed by the CBI, the respondent has not been arrayed as an accused



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but as a witness. The observation of the CBI on the investigation has been reproduced by us herein above.

24. In our view, therefore, the learned Tribunal has rightly placed reliance on the Judgments of the Supreme Court in ***Ajay Kumar Choudhary*** (supra) and in ***Pramod Kumar IPS*** (supra), and has rightly held that the period of suspension of the respondent cannot be extended any further.

25. We, however, clarify that the Impugned Order shall not be read to mean that the initial suspension of the respondent was also invalid. The finding of the learned Tribunal, setting aside the Suspension Order dated 22.08.2022 and the extensions thereof granted thereafter, shall stand set aside.

26. The petitioners must pass consequential Orders within a period of four weeks from today.

27. The petition, along with pending applications, is disposed of in above terms.

28. There shall be no orders as to costs.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 17, 2025/pr/sm/ik