



2025:DHC:7912-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11448/2025, CM APPL. 47023/2025 & CM APPL.
56142/2025

MANOJ KUMAR M. THROUGH
A.R ASHISH DUBEY

.....Petitioner

Through: Mr. T. Singhdev, Mr Rohit
Bhagat, Ms. Anum Hussain, Ms. Yamini
Singh, Mr. Pragyesh Pratap Singh, Ms.
Aprajita, Mr. Abhijit Chakravarty, Ms.
Ramanpreet Kaur, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Syed Abdul Haseeb, CGSC
with Mr. Anis, GP
Mr. Naveen Bhardwaj, JD (Admn), Sub.
Ram Niwas and UDC Rameshwar Lal

+ W.P.(C) 11477/2025, CM APPL. 47089/2025 & CM APPL.
56181/2025

ARUN KUMAR SEMWAL THROUGH
A.R ASHISH DUBEY

.....Petitioner

Through: Mr. T. Singhdev, Mr Rohit
Bhagat, Ms. Anum Hussain, Ms. Yamini
Singh, Mr. Pragyesh Pratap Singh, Ms.
Aprajita, Mr. Abhijit Chakravarty, Ms.
Ramanpreet Kaur, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Ranjeev Khatana, SPC with
Mr. Ram Niwas, BRO and Mr. Naveen
Bharadwaj, GREF, BRO
Mr. Rajat Rajoria Singh, GP



CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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09.09.2025

C. HARI SHANKAR, J.

1. Having heard learned Counsel for the parties, we are disposing of these writ petitions on a very limited ground. The facts are identical. For the sake of convenience, we refer to the facts in WP (C) 11448/2025.
2. By order dated 28 February 2025, the petitioner was placed under suspension under Rule 10(1)(a) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965¹ on the ground that disciplinary proceedings were contemplated against him.
3. Rule 10(6) of the CCS (CCA) Rules requires every order of suspension to be reviewed every 90 days, upto the maximum period of 270 days.
4. It is also trite in law that an extension which is on grounds which are legally unsustainable would have to be set aside and would result in extinguishing of the order of suspension on that day.
5. The very first extension of the petitioners order of suspension

¹ "CCS(CCA) Rules" hereinafter



which was on 27 May 2025, read thus:

“1 Whereas, a disciplinary proceedings against Shri Manoj Kumar M, JE (Civ) (GS-184943W) of HQ GE (P) Yojak is contemplated for Misconduct committed while posted with 80 RCC/755 BRTF under Project Swastik.

2 Whereas, an Order placing Shri Manoj Kumar M, JE (Civ) (GS-184943W) under suspension wef 28 Feb 2025 until further orders was issued in exercise of powers conferred by sub rule 1 (a) of Rule 10 of CCS (CC&A) Rules, 1965 vide DGBR Order No.17008/DGBR/1690/03/E1E dated 28 Feb 2025. The suspension period of 90 days will expire on 28 May 2025.

3 Now, therefore, the Competent Authority in exercise of the powers conferred by sub rule (6) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, hereby directs to continue the suspension of the said Shri Manoj Kumar M, JE (Civ) (GS-184943W) for a further period of 90 days wef 29 May 2025 to 26 Aug 2025 as *disciplinary action is pending against Shri Manoj Kumar M, JE (Civ) (GS-184943W)*.

4 Now, therefore, the Competent Authority in exercise of powers conferred by FR 53 hereby permits the said Shri Manoj Kumar M, JE (CI) (GS-184943W) to continue to claim/draw subsistence allowance @50% of pay during this suspension period.

5 The amount of subsistence allowance shall be regulated in terms of provisions contained in sub rule (ii) (a) of Rule (1) of FR 53, subject to the condition that he has not been engaged in any employment, business, profession or vocation during the period to which the claim relates, as contained in Government of India's Order No. 3 (b) below *ibid* Rule.

6 It is further ordered that during the period, this order enforces that the Headquarters of Shri Manoj Kumar M, JE (Civ) (GS-184943W) of HQ CE (P) Yojak shall be HQ CE (P) Yojak and the said Shri Manoj Kumar M, JE (Civ) (GS-184943W) shall not leave the said Headquarters without obtaining the prior permission of the undersigned.”

(Emphasis supplied)

6. This was followed by a further order of suspension on 22 August 2025 which was identical in terms.



7. Thus, the orders of 27 May 2025 and 22 August 2025 extended the petitioner's suspension for the second period of 90 days and the third period of 90 days on the ground *that disciplinary proceedings were pending against him*. It is also an admitted position that, till date, no charge-sheet has been issued to the petitioner.

8. Mr. Haseeb, learned CGSC submits that the issuance of charge-sheet is imminent and is presently seeking approval of the CVC.

9. Be that as it may, it is settled in law that disciplinary proceedings commence only with issuance of charge-sheet. The following passage from *Union of India v Anil Kumar Sarkar*² makes this clear:

“19. In *Coal India Ltd. v Saroj Kumar Mishra*³ this Court, in AIR para 22, has held that:

“18. A departmental proceeding is ordinarily said to be initiated only when a charge-sheet is issued.”

20. In *Coal India Ltd. v Ananta Saha*⁴ this Court held as under:

“27. There can be no quarrel with the settled legal proposition that the disciplinary proceedings commence only when a charge-sheet is issued to the delinquent employee.⁵”

21. We also reiterate that the disciplinary proceedings commence only when a charge-sheet is issued. Departmental proceeding is normally said to be initiated only when a charge-

² (2013) 4 SCC 161

³ AIR 2007 SC 1706

⁴ (2011) 5 SCC 142

⁵ *Union of India v K.V. Jankiraman*, (1991) 4 SCC 109 and *UCO Bank v Rajinder Lal Capoor*, (2007) 6 SCC 694



sheet is issued.”

10. It is also apparent from Rule 14(3) and 14(4) of the CCS (CCA) Rules.

11. As such, the ground on which the suspension was extended on the second period of 90 days and the third period of 90 days was erroneous, as there were no disciplinary proceedings pending against the petitioner at that point of time.

12. Though Mr. Haseeb submits that the original ground on which the petitioner had been placed under suspension, which was that disciplinary proceedings were contemplated against petitioner continues to apply, the extension of suspension was not on the ground that disciplinary proceedings continued to remain contemplated, but that they were pending, which is incorrect.

13. Even if this was an inadvertent error, the petitioner is entitled to the benefit thereof. The legality of any executive action is to be tested on the reasons adduced therefor. This has been the law since *Commissioner of Police v Gordhandas Bhanji*⁶, as cited in the following famous passage from *Mohinder Singh Gill v Chief Election Commissioner*⁷:

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the

⁶ AIR 1952 SC 16

⁷ (1978) 1 SCC 405



time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in ***Gordhandas Bhanji***:

“Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.”

Orders are not like old wine becoming better as they grow older.”

14. As such, solely on the ground that first and second extensions of suspension were on an a plainly factually erroneous ground, we are constrained to set aside the orders dated 27 May 2025 and 22 August 2025 whereby the petitioner’s suspension was extended beyond 90 days. Consequences in law would follow. The petitioner would be entitled, therefore, to be reinstated in service.

15. This would, however, not preclude the respondent from taking action against the petitioner in accordance with law, including by way of suspension if deemed appropriate.

16. Needless to say, should the petitioner being aggrieved by any such action which may be taken, the petitioner’s right in law shall remain reserved.

17. Mr. Singhdev points out that the petitioner’s application for leave is pending with the respondents. We say nothing thereon. It would be for the respondents to take a decision on the application.



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18. The petitions are allowed to the aforesaid extent.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

SEPTEMBER 9, 2025/AT