



2026:DHC:3909-DB



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

+ W.P.(C) 7917/2018

UNION OF INDIA & ORS

.....Petitioners

Through: Mr. P.S Singh CGSC with Mr. Rajneesh K Sharma, Mr. Mrityunjay Kumar Singh, Mr. Aditya Tomar, Ms. Shivangi Sharma and Mr. Amit Achraya, Advocates

versus

NAVNEET KUMAR

.....Respondent

Through: Mr. R.V. Sinha, Mr. A.S. Singh and Ms. Shreya Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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06.05.2026

C. HARI SHANKAR, J.

1. The respondent was placed under suspension by the following order dated 17 June 2017:

“ORDER

Whereas, departmental proceedings are contemplated against Shri Navneet Kumar, Deputy Commissioner of Customs, ACC, Kolkata.

Now therefore, the President in exercise of powers conferred by Rule 10(1) (a) of Central Civil Services (Classification, Control and Appeal) Rules, 1965 hereby places said Shri Navneet Kumar, Deputy Commissioner under suspension with Immediate effect.

It is further ordered that during the period of suspension, the headquarters of Shri Navneet Kumar, Deputy Commissioner will be the office of Chief Commissioner of Central Excise, Kolkata



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Zone and said Shri Navneet Kumar shall not leave the headquarters without obtaining the previous permission of the competent authority. He will be entitled to receive subsistence allowance as per FR. 53.

By order and in the name of the President
Sd/-
(Sukh Lal Meena)
Under Secretary to the Government of India”

2. Asserting that the suspension could not continue for more than six months without any charge-sheet having been issued to him, the respondent approached the Central Administrative Tribunal¹ by way of OA 915/2018, seeking quashing of the suspension order and for permission to rejoin service.

3. The Tribunal has allowed the OA by the following order dated 2 April 2018:

“Despite opportunities, reply has not been filed. Shri R.N. Singh, learned counsel appearing for the applicant submits that the controversy is squarely covered by judgment of the Hon'ble Apex Court in A.K. Chaudhary v. UOI /2015 AIR (SC) 2389] as also the Order passed by this Tribunal in OA No.4159/2017 dated 21.11.2017.

2. Heard the learned counsel for the parties. The applicant is aggrieved of his continuous suspension beyond 90 days without serving the charge sheet. The applicant was placed under suspension vide order dated 17.06.2017 (Annexure A-1) in contemplation of the departmental proceedings without mentioning the period of suspension. The said suspension was further continued vide order dated 13.09.2017(Annexure A-2) for a further period of 180 days on the recommendations of the Review Committee. Admittedly, till date no charge sheet has been issued. Considering the ratio of the judgment in Ajay Kumar Choudhary's case(supra), this Tribunal passed the following directions in OA No.4159/2017 vide its Order dated 21.12.2017:-

"4. This OA is accordingly allowed. The impugned

¹ “the Tribunal”, hereinafter



orders for extension of the suspension of the applicant (Annexure A-2 to A-4) are hereby set aside. The applicant shall be treated to be in service after expiry of 90 days. Insofar as the initial period of 90 days is concerned, the respondents will take decision in accordance with law under Fundamental Rule 54-B. The applicant will be entitled to the salary after the expiry of 90 days of initial suspension. The respondents are directed to implement the above directions within a period of two months from the date of receipt of a certified copy of this order. No costs."

3. The present OA is disposed of in terms of the aforesaid judgments."

4. Aggrieved by the aforesaid order, the Union of India² has approached this Court by means of the present writ petition.

5. We have heard Mr. P.S. Singh, learned CGSC for the petitioners and Mr. R.V. Sinha, learned counsel for the respondent.

6. The impugned order, on a plain reading, discloses that it has been passed solely on the basis of the judgment of the Supreme Court in *Ajay Kumar Choudhary v. Union of India*³. As it stands, the impugned order may not be entirely sustainable as *Ajay Kumar Choudhary* case has subsequently been examined by this Court in various decisions including *GNCTD v. Dr. Rishi Anand*⁴, *Dinesh Bishnoi v. Union of India*⁵ and most recently by a Coordinate Bench of this Court in *Pramod Kumar v. UOI*⁶, which considers the earlier decisions. The outcome of these decisions is that there is no absolute right to seek extinguishing of a suspension order merely because no

² "UOI", hereinafter

³ AIR 2015 SC 2389

⁴ 2017 SCC OnLine Del 10506

⁵ 2023 SCC OnLine Del 4023

⁶ 2026 SCC OnLine Del 1096



charge sheet has been issued, so long as the suspension order has periodically been extended in accordance with the Rule 10(6)⁷ of the CCS (CCA) Rules.

7. There is no dispute about the fact that the suspension order of the respondent was duly extended from time to time. Accordingly, to the extent that the Tribunal has directed the respondent's reinstatement in service, solely by following the judgment in *Ajay Kumar Choudhary*, the impugned judgment may not be sustainable.

8. However, during the pendency of these proceedings, this Court, on 9 July 2019, called upon the UOI to file an affidavit with respect to the status of the disciplinary proceedings instituted against the respondent, as the respondent had been suspended on the ground of contemplated disciplinary proceedings. In compliance with the said directions, the UOI has filed an affidavit dated 13 January 2023, from which we deem it appropriate to reproduce the following paragraphs:

"3. That the Hon'ble Court vide order dated 09.07.2019 directed the Petitioner to file the status report by way of an affidavit with respect to the steps taken by the petitioner for initiation of departmental proceedings against the respondent. The relevant portion of the said order is reproduced herein below: -

"2. We direct the petitioners to place on record an affidavit disclosing the steps taken by them for initiation of departmental proceedings against the respondent. The present status in that regard should be disclosed. It should also disclose the status of the investigation undertaken by the CBI and the estimated time that the CBI is likely to take

⁷ (6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority which is 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.



to file the charge sheet, if any"

4. It is most respectfully submitted that the Directorate of Revenue Intelligence (DRI), Kolkata had received specific intelligence of suspected involvement of the respondent in a smuggling racket.

5. The investigations revealed that large scale and unprecedented smuggling was taking place at Air Cargo Complex, Kolkata in an organized manner by certain importers with an active involvement of the respondent herein.

6. The DRI with respect to the fraudulent imports issued 13 Show Cause Notices (SCN) dated 01.12.2017, 02.12.2017, 03.12.2017 and 04.12.2017 in which the respondent has been made a noticee. That out of the 13 SCNs, 08 SCNs have been adjudicated and a penalty totaling Rs. 47.3 crores has been imposed on the respondent under Section 112(a)(i), 112(b)(i) and 114 AA of the Customs Act, 1962.

7. Further, the respondent appeared to be absent without sanctioned leave/headquarters leaving permission and the respondent also did not respond to the summons issued by the petitioner and was untraceable.

8. The DRI recommended that the respondent be placed under suspension and accordingly the matter was examined in the Ministry and the respondent was placed under suspension vide order dated 17.06.2017 in terms of Rule 10(1)(a) of CCS (CCA) Rules, 1965. The suspension was further extended from time to time and the respondent still continues to be under suspension.

9. That with respect to the fraudulent imports done through Air Cargo complex, Kolkata, Central Bureau of Investigation (CBI) in its report dated 04.02.2022 has recommended prosecution against the respondent.

10. The Central Vigilance Commission (CVC) vide its advice dated 28.06.2022 has also recommended for prosecution sanction and initiation of Regular Departmental Action (RDA) for major penalty proceedings against the respondent. Copy of the advice dated 28.06.2022 has been annexed and marked herewith as Annexure-1.

11. That the prosecution of the respondent has been sanctioned by the Competent Authority vide Sanction Order No. 13/2022 dated 16.08.2022.



12. The draft Charge Memorandum for initiation of departmental proceedings has been put up to Disciplinary Authority on 21.11.2022 for approval and is under process.

13. Further, CBI has filed Charge Sheet dated 30.07.2021 against the respondent in a matter of fraudulent selection through Union Public Service Commission (UPSC) by impersonation.

14. *That disciplinary proceedings in a non-vigilance case for major penalty were also instituted against the respondent vide charge memorandum dated 29.12.2017 alleging conduct unbecoming of a government servant, in as much as he entered into the room of Chairperson, Central Board of Indirect Taxes and Customs (CBIC) without prior appointment and for leaving headquarters without the prior permission of the competent authority. Copy of the charge memorandum dated 29.12.2017 has been annexed and marked herewith as Annexure -2.*

15. The competent Authority has passed the Final order dated 28.02.2022 in the above mentioned non-vigilance case of the conduct unbecoming of the government of a servant against the respondent imposing a penalty of "reduction to lower stage in the time scale of pay by one stage for a period of one year with further direction that he will not earn increments of the pay during the period of such reduction and that on the expiry of such reduction, the reduction will have the effect of postponing of the future increment of his pay". Copy of the final order dated 28.02.2022 has been annexed and marked herewith as Annexure-3."

9. It is true that in the aforesaid affidavit, UOI has levelled very serious allegations against the respondent, and has also referred to the fact that a charge-sheet stands filed against the respondent before a competent Criminal Court. However, the fact of the matter is that the suspension of the respondent was not on the ground of pendency of criminal proceedings but on the ground that disciplinary proceedings were contemplated against him. From the time of ***Commissioner of Police v. Gordhandas Bhanji***⁸, which was followed by the Supreme Court in ***Mohinder Singh Gill v. The Chief Election Commissioner***,

⁸ 1951 SCC 1088



*New Delhi*⁹, the law is that an order has to stand or fall based on the reasons contained in the order. The continuance of the respondent's suspension order cannot, therefore, be sought to be justified on the ground that there were criminal proceedings against the respondent.

10. In so far as the disciplinary proceedings, the contemplation of which had provoked the issuance of the suspension order dated 17 June 2017 is concerned, the affidavit filed by the UOI clearly acknowledges that the charge-sheet which was under contemplation at that time was actually issued to the respondent on 29 December 2017 and that the disciplinary proceedings which followed the issuance of the charge-sheet culminated in passing of the order 18/2022 dated 28 February 2022, whereby the respondent was imposed a penalty of reduction to lower stage in the time scale of pay by one stage for one year without increments of pay in the interregnum and postponement of future increments of pay.

11. With the passing of the said order, the disciplinary proceedings, *the contemplation of which had provoked the issuance of the suspension order dated 17 June 2017*, came to an end. The basis of issuance of the suspension order, therefore, did not survive any further.

12. We queried of Mr. Singh as to whether there was any other order suspending the respondent on any other count. Mr. Singh is not able to invite our attention to any such suspension order.

⁹ (1978) 1 SCC 405



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13. In that view of the matter, inasmuch as the disciplinary proceedings, which were the basis of the suspension order dated 17 June 2017, had culminated in an order of penalty, the said suspension order cannot be continued any further.

14. For the aforesaid reasons, therefore, we sustain the order of the Tribunal to the extent it has quashed the continued suspension of the respondent from service, but for our reasons cited above and not for the reasons contained in the impugned order.

15. The writ petition is, accordingly, dismissed.

16. However, it is clarified that passing of this judgment shall not stand in the way of the petitioner passing any fresh order of suspension or otherwise proceeding in accordance with law against the respondent, if so advised.

C.HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

MAY 6, 2026/yg