



2025:DHC:5056-DB



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

Reserved on: 06.05.2025
Pronounced on: 01.07.2025

+ **LPA 204/2025 & CM APPL. 16336/2025**

M M DHONCHAKAppellant

Through: In person.

versus

UNION OF INDIARespondent

Through: Ms. Pratima N. Lakra, CGSC
with Mr. Chandan Prajapati
Adv. & Ms. Pinky Pawar, GP

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

NAVIN CHAWLA, J.

1. The present Appeal has been filed challenging the Judgment dated 03.03.2025 passed by the learned Single Judge in W.P.(C) No. 15933 of 2024, titled *M M Dhonchak vs. Union of India*, whereby the petition impugning the second order of extension of suspension of the appellant from the post of Presiding Officer, DRT-II, Chandigarh, dated 05.11.2024, was dismissed as being devoid of merit.

FACTS OF THE CASE

2. Briefly put, the facts giving rise to the present appeal are that the appellant, a retired judicial officer, was appointed as the Presiding Officer, DRT-II, Chandigarh, on 20.02.2022.



3. The respondent claims that multiple complaints were received from the DRT Bar Association against the appellant, citing judicial impropriety. These complaints were duly referred to the Chairperson, Debt Recovery Appellate Tribunal (DRAT), Delhi, for appropriate consideration. During the pendency of the consideration of the said complaints, members of the DRT Bar Association abstained from appearing before the appellant in protest. It is alleged that instead of granting adjournments, several matters were proceeded *ex parte* and dismissed by the appellant. The DRT Bar Association then filed a Writ Petition before the High Court of Punjab and Haryana against the orders passed by the appellant. The High Court, *vide* its Judgement dated 27.10.2022, while deprecating the lawyers for going on strike, restrained the appellant from passing any adverse orders.

4. Challenging the Order passed by the High Court, the appellant filed SLP(C) No. 21138/2022 before the Supreme Court. The Supreme Court, *vide* Order dated 02.12.2022, modified the Order of the High Court and permitted the appellant to proceed further with the hearing of the matters before him and decide the same on merits. The Supreme Court further observed that being part of the justice delivery system, both, the Bar and the appellant, should always try to maintain a cordial atmosphere/relationship and respect each other. The Supreme Court impressed upon the appellant to see that there is no unnecessary confrontation, and he may decide the cases before him in accordance with law on their own merits.

5. By a subsequent Order dated 12.12.2022, the Supreme Court, taking note of the fact that the Chairman of the DRT/DRAT is looking



into the grievances made by the Bar Association, more particularly the conduct of the appellant, continued the *ad-interim* Order dated 02.12.2012, while leaving the matter to the Chairman of the DRT/DRAT to take an appropriate decision independently and, if required, after giving an opportunity of hearing to the representatives of the Bar Association as also the appellant.

6. The Chairperson, DRAT submitted his preliminary report dated 10.07.2023, opining that the appellant was not behaving properly with the members of the Bar and *prima facie* defeated the very purpose of the Recovery of Debts and Bankruptcy Act, 1993 by adjourning the cases to the year 2026, that is, beyond his tenure. The same in turn was delaying the recovery of amount from borrowers and was adversely affecting the economic health of the country. We quote from the Report, as under:-

“41. However, as discussed earlier, by virtue of directions of the Hon’ble Supreme Court vide its orders dated 12.12.2022 and 12.05.2023, this Appellate Tribunal is duty bound to give its observation regarding conduct of Ld. Presiding Officer and is of the opinion that prima facie all is not well in the manner in which Ld. Presiding Officer, DRT-II, Chandigarh is conducting himself for the following reasons:-

1. This Tribunal is of the opinion that it is prima facie clear from the complaints received from the DRT Bar Association, Chandigarh that Ld. Presiding Officer, DRT-II, Chandigarh is not behaving properly with the Ld. Members of the Bar.

2. Ld. Presiding Officer has prima facie defeated the very purpose of



enactment of the Recovery of Debts and Bankruptcy Act by adjourning the cases to the year 2026, i.e. beyond his tenure.

3. *Giving long adjournments of 3 to 4 years prima facie show that Ld. Presiding Officer, DRT-II, Chandigarh is not sensitive in dealing with the matters pending before him for adjudication and is oblivious of the fact that he has been entrusted with a task which affects the economy of the nation.*

4. *There is no complaint against Ld. Presiding Officer of other DRTs regarding conduct or behaviour from DRT Bar Associations except the Ld. Presiding Officer, DRT-II, Chandigarh.*

5. *The matters are also adjourned by other DRTs and next dates given generally extend to six months. Ld. Presiding Officer, DRT-II, Chandigarh is, however, adjourning the matters for three to four years, i.e. beyond his tenure, which in turn is prima facie delaying the recovery of amount from the borrowers and is adversely affecting the economic health of the country.*

6. *The Ld. Presiding Officer, DRT-II, Chandigarh has failed to redress the grievance of the Ld. Members of Bar. Ld. Presiding Officer has also refused to accede to the oral request made by the undersigned to him to resolve the matter / differences amicably with the Ld. President and Secretary of DRT Bar.*

7. *The complaints made against Ld. Presiding Officer, DRT-II, Chandigarh regarding his conduct cannot prima facie be termed as motivated, false or frivolous for the reason that there is nothing on record to suggest that Ld. Presiding Officer and that is why it is making complaints against him only and not against other Ld. Presiding Officers functioning at Chandigarh.*



42. This Tribunal has thus, given its prima facie detailed observations regarding the way of working and conduct of the Ld. Presiding Officer, DRT-II, Chandigarh. As discussed earlier, now Central Government has to take a decision after scrutinising the complaints relating to the conduct and behaviour of Ld. Presiding Officer, DRT-II, Chandigarh Mr. M.M. Dhonchak received from the Ld. Members of Bar in accordance with Rule 9 of the Tribunal (Conditions of Service) Rules, 2021 made under the Tribunal Reforms Act, 2021 which contemplates that on receipt of a written complaint alleging any definite charge of misbehaviour or incapacity to perform the function in respect of a Member (Presiding Officer in the present case) by the Central Government, it shall make a preliminary scrutiny of such complaint and when on preliminary scrutiny, the Central Government is of the opinion that there are reasonable grounds for making an inquiry into the truth of misbehaviour or incapacity of a Member, it shall make a reference to the Committee.”

7. The respondent, finding that there are reasonable grounds for making an inquiry against the appellant, placed the matter before the Search Cum Selection Committee (SCSC) headed by a Hon'ble Judge of the Supreme Court. The SCSC, in its meeting held on 24.08.2023, decided that an inquiry against the appellant be conducted by a former Chief Justice of a High Court in accordance with Rule 9(3) of the Tribunal (Condition of Service) Rules, 2021. Accordingly, Justice Virender Singh, former Chief Justice of the High Court of Jharkhand was appointed as the Inquiry Officer.

8. The SCSC, in its meeting held on 22.11.2023, also recommended suspension of the appellant. Based on the



recommendation, and in exercise of powers conferred under Rule 16 of the Tribunal (Conditions of Service) Rules, 2021 read with the Central Civil Service (Classification, Control and Appeal) Rules, 1965, the appellant was placed under suspension *vide* Order dated 13.02.2024.

9. Subsequently, a Charge Sheet *vide* Memorandum dated 26.02.2024, with the approval of the Finance Minister, was issued to the appellant.

10. The appellant thereafter made allegations of bias against the appointed Inquiry Officer and, *vide* his representation dated 05.03.2024, sought his replacement. While this request was rejected on 29.04.2024 and the review request thereagainst was also not allowed *vide* Order dated 04.06.2024, Hon'ble Mr. Justice Virender Singh recused himself on 29.05.2024. It is the respondent's case that this led to procedural delays in appointing a new Inquiry Officer.

11. The matter was then duly placed before the Suspension Review Committee (SRC) on 26.04.2024, which, after considering the records, recommended the extension of suspension of the appellant. The suspension was extended first until 09.11.2024 *vide* Order dated 13.05.2024, and then again for a further 180 days until 08.05.2025 *vide* Order dated 05.11.2024.

12. The appellant challenged the Order of suspension dated 13.02.2024 and the first extension Order dated 13.05.2024, by way of W.P.(C) 5143/2024 and W.P.(C) 8478/2024, respectively, both of which are pending adjudication before the Hon'ble Single Judge.



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13. The appellant also filed a Writ Petition, being W.P.(C) 15933/2024, challenging the Order dated 05.11.2024 which further extended his suspension. The said Writ Petition has been dismissed by the learned Single Judge *vide* the Impugned Order. Aggrieved of which the appellant has filed the present appeal.

SUBMISSIONS OF THE APPELLANT IN PERSON

14. The appellant, who appears in person, submits that the appellant is being penalized for doing his work diligently and in a professional manner. He submits that he had the highest disposal rate of all DRTs. Merely because he was unwilling to accommodate the lawyers, false complaints were made against him.

15. He submits that with the continued suspension of the appellant, the work of the DRT has completely stalled and that hence his suspension is, in fact, against the public interest.

16. He submits that the learned Single Judge failed to appreciate that there was no prayer made by the appellant for expediting the inquiry. He submits that such a prayer was intentionally not made as it would have nullified the challenge to the illegal extension of the suspension order.

17. He submits that the learned counsel for the respondent had produced before the learned Single Judge, Minutes of Meeting of the SRC dated 23.10.2024, without disclosing the same to the appellant, and that the same have been made the basis for the Impugned Judgment, thereby violating the principles of natural justice.



18. He submits that there was no basis for the learned Single Judge to conclude that it was the appellant who had protracted the Inquiry process.

19. He submits that the learned Single Judge has recorded in the Impugned Judgement that the SRC took note of an Order dated 06.02.2024 passed by the High Court of Punjab and Haryana in the contempt proceedings initiated allegedly for switching the audio and video of video-conference hearings on and off at his own whims, despite orders of the High Court. He submits that, in fact, there is no such observation by the High Court and the same was only a misrepresentation from the side of the counsel appearing before the High Court of Punjab and Haryana. He submits that in any case, this allegation does not form a part of the charge sheet and therefore, no cognizance could be taken by the SRC or by the learned Single Judge.

20. He submits that the learned Single Judge wrongly opined that revoking appellant's suspension would not be conducive to the conduct of a fair inquiry. No reason has been assigned for this finding by the learned Single Judge.

21. He submits that merely because the appellant had sought removal of the Inquiry Officer, would not justify the continuation of the suspension.

22. He submits that the extension order suffers from bias as the Chairperson of the SCSC has already decided two SLP(s) preferred by the appellant on identical matters.

23. He submits that the learned Single Judge further placed reliance on the Order dated 17.09.2024 passed in IA no.186471/2024 in



SLP(C) no.11029/2024, whereby the appellant had sought to intervene in the contempt proceedings initiated against the Bar Association of DRT Vishakhapatnam. He submits that mere dismissal of this application can have no bearing on the order continuing his suspension.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENT

24. The learned counsel for the respondent raises a preliminary objection contending that the scope of judicial review under Article 226 of the Constitution of India is inherently limited, particularly in matters involving preventive suspension. She states that such review is maintainable only in cases of manifest perversity, jurisdictional overreach, patent error on the face of the record, or breach of the principles of natural justice. Reliance is placed on the Judgment of the Supreme Court in *State of Orissa vs. Bimal Kumar Mohanty*, (1994) 4 SCC 126.

25. She further places reliance on the Judgement of this Court in *Director General, Delhi Doordarshan Kendra vs. Mohd Shahbaz & Ors.*, 2024 SCC OnLine Del 2203, to submit that Article 226 of the Constitution of India does not provide for a forum for reappraisal of facts, particularly where the decision of a competent authority is based on cogent material and administrative discretion.

26. She submits that in the present case, the appellant's allegations regarding violation of principles of natural justice, are wholly unsubstantiated as he was provided ample opportunity to present his



case. She further contends that the findings of the competent authority are based on verifiable records, including written complaints from the DRT Bar Association, administrative notings, documented conduct affecting judicial decorum, and reports prepared by competent authorities.

27. Relying on the Judgement of the Supreme Court in *Union of India vs. Ashok Kumar Aggarwal*, (2013) 16 SCC 147, the learned counsel for the respondent submits that suspension during pendency of disciplinary proceedings, is preventive, not punitive, and is intended to preserve the sanctity and fairness of the process. She submits that the mere delay in conclusion of an inquiry cannot be a ground for quashing a suspension order, if charges are grave in nature. She submits that whether an employee should continue in office during the pendency of an inquiry, is a matter to be assessed by the disciplinary authority concerned.

28. She states that therefore, the appellant, while subject to serious allegations involving judicial impropriety, cannot seek continuation in active judicial service as a matter of right, particularly when the disciplinary process remains pending.

29. She further states that the delay in the disciplinary proceedings is directly attributable to the appellant's own conduct, including objecting to the initial Inquiry Officer, who subsequently recused himself. She states that since then, a new Inquiry Officer has already been appointed and the inquiry process is underway.



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.”

(emphasis supplied)

34. Furthermore, the Supreme Court in *Ashok Kumar Aggarwal* (supra), opined as under:

“26. The scope of interference by the Court with the order of suspension has been examined by the Court in a large number of cases, particularly in *State of M.P. v. Shardul Singh* [(1970) 1 SCC 108] , *P.V. Srinivasa Sastry v. Comptroller & Auditor General* [(1993) 1 SCC 419 : 1993 SCC (L&S) 206 : (1993) 23 ATC 645] , *ESI v. T. Abdul Razak* [(1996) 4 SCC 708 : 1996 SCC (L&S) 1061] , *Kusheshwar Dubey v. Bharat Coking*



*Coal Ltd. [(1988) 4 SCC 319 : 1988 SCC (L&S) 950] , Delhi Cloth & General Mills Ltd. v. Kushal Bhan [AIR 1960 SC 806] , U.P. Rajya Krishi Utpadan Mandi Parishad v. Sanjiv Rajan [1993 Supp (3) SCC 483 : 1994 SCC (L&S) 67 : (1993) 25 ATC 764] , State of Rajasthan v. B.K. Meena [(1996) 6 SCC 417 : 1996 SCC (L&S) 1455], Prohibition and Excise Deptt. v. L. Srinivasan [(1996) 3 SCC 157 : 1996 SCC (L&S) 686 : (1996) 33 ATC 745] and Allahabad Bank v. Deepak Kumar Bhola [(1997) 4 SCC 1 : 1997 SCC (L&S) 897], wherein it has been observed that even if a criminal trial or enquiry takes a long time, it is ordinarily not open to the court to interfere in case of suspension as it is in the exclusive domain of the competent authority who can always review its order of suspension being an inherent power conferred upon them by the provisions of Article 21 of the General Clauses Act, 1897 and while exercising such a power, the authority can consider the case of an employee for revoking the suspension order, if satisfied that the criminal case pending would be concluded after an unusual delay for no fault of the employee concerned. **Where the charges are baseless, mala fide or vindictive and are framed only to keep the delinquent employee out of job, a case for judicial review is made out. But in a case where no conclusion can be arrived at without examining the entire record in question and in order that the disciplinary proceedings may continue unhindered the court may not interfere. In case the court comes to the conclusion that the authority is not proceeding expeditiously as it ought to have been and it results in prolongation of sufferings for the delinquent employee, the court may issue directions. The court may, in case the authority fails to furnish proper explanation for delay in conclusion of the enquiry, direct to complete the enquiry within a stipulated period. However, mere delay in***



conclusion of enquiry or trial cannot be a ground for quashing the suspension order, if the charges are grave in nature. But, whether the employee should or should not continue in his office during the period of enquiry is a matter to be assessed by the disciplinary authority concerned and ordinarily the court should not interfere with the orders of suspension unless they are passed in mala fide and without there being even a prima facie evidence on record connecting the employee with the misconduct in question.

27. Suspension is a device to keep the delinquent out of the mischief range. The purpose is to complete the proceedings unhindered. Suspension is an interim measure in the aid of disciplinary proceedings so that the delinquent may not gain custody or control of papers or take any advantage of his position. **More so, at this stage, it is not desirable that the court may find out as to which version is true when there are claims and counterclaims on factual issues. The court cannot act as if it is an appellate forum de hors the powers of judicial review.**

(emphasis supplied)

35. In the present case, the Inquiry against the appellant is on the following Charges:

“Article I

That the said Shri Man Mohan Dhonchak, while functioning as Presiding Officer, Debts Recovery Tribunal-2 (DRT-2), Chandigarh behaved in a rude manner with the Members of the Debts Recovery Tribunal Bar Association, Chandigarh which is not expected from a judicial officer and harassed the counsel appearing both for financial institutions and borrowers while conducting the court proceedings since July, 2022.

Thus, by acting in the aforesaid manner, Shri Man Mohan Dhonchak, PO, DRT-2,



Chandigarh has acted in a manner which amounts to misbehavior.

Article II

That the said Shri Man Mohan Dhonchak, while functioning as Presiding Officer, Debts Recovery Tribunal-2 (DRT-2), Chandigarh defeated the very purpose of enactment of the Recovery of Debts and Bankruptcy Act, 1993 by adjourning the cases being heard by him in the year 2022 and 2023 to the year 2026, i.e beyond his tenure. The said act of Shri M.M Dhonchak has been repeatedly criticized by members of DRT Bar Association of Chandigarh and the Chairperson, DRAT, Delhi has also taken cognizance of the alleged act of Shri M.M Dhonchak.

By the aforesaid act, Shri Man Mohan Dhonchak has exhibited lack of devotion of duty and his act shows that he is oblivious to the fact that he has been entrusted with a task which affects the economy of the nation thereby delaying recovery of amount due from borrowers. It is, therefore, alleged that, Shri Man Mohan Dhonchak, PO, DRT-2, Chandigarh abused his position as PO, DRT-2, Chandigarh, prejudicial to the public interest by adjourning the matters to the year 2026, an act which is in direct contravention with the basic premise of the Recovery of Debts and Bankruptcy (RDB) Act, 1993 which was established for expeditious adjudication and recovery of debts due to banks and financial institutions and Section 19(24) of the RDB Act, 1993.

Thus, by acting in the aforesaid manner, Shri Man Mohan Dhonchak, PO, DRT-2, Chandigarh has failed to maintain devotion to duty, has not performed and not discharged his duties with the highest degree of professionalism and dedication to the best of his abilities, has failed to take decisions on merit alone and has acted in a manner which is unbecoming of a Government Servant. Shri Man Mohan Dhonchak has therefore, violated



provisions of Rules 3(1) (ii), 3(1)(iii), 3(1)(xvi) and 3(1) (xxi) of CCS(Conduct Rules) 1964.

Article III

That the the said Shri Man Mohan Dhonchak, while functioning as Presiding Officer, Debts Recovery Tribunal-2 (DRT-2), Chandigarh failed to maintain courtesy with the members of DRT Bar Association and good behaviour with the public. Shri Man Mohan Dhonchak has therefore, violated provisions of Rules 3(1) (xi) of CCS(Conduct Rules) 1964.”

36. The procedure as laid down in Rule 9 of the Tribunal (Conditions of Service) Rules, 2021, has been followed by the respondent while initiating the Inquiry against the appellant. Additionally, the procedure for extension of suspension as laid down under Rule 10 of the Central Civil Services (Classification, Control, and Appeal) Rules, 1965 has also been duly followed by the competent authority while passing the extension order.

37. The nature of the charges on which the appellant is being proceeded against is grave and his acts are stated to be prejudicial to the public interest. Various orders of the Punjab and Haryana High Court have also been brought to our notice, which make scathing comments on the conduct of the appellant in his capacity as the Presiding Officer of the DRT.

38. Tested on the above principles of law governing the scrutiny of an order of suspension or its continuation, no fault can be found in the order extending the suspension of the appellant.

39. As far as the plea of the appellant that his suspension is harming the functioning of the DRT, it is for the competent authority to weigh between the continued suspension of the appellant and the effect it



may have on the functioning of the DRT. In the present case, it is sufficient to state that there was sufficient material before the competent authority to continue with the suspension of the appellant. It will, therefore, be for the Competent Authority to take requisite steps to also ensure that the litigants do not suffer due to the suspension of the appellant and the DRT functions to discharge its duties.

40. As regards the submission of the appellant that the Order dated 06.02.2024 of the High Court of Punjab and Haryana has been misread by the SRC as also by the learned Single Judge, we may only note that the High Court has observed as under:

“Therefore, on readings of the above extracted orders, it is clear, that hybrid system with video and audio picture, is in place at the DRT concerned. Nonetheless, it is also clear from readings of the above said paragraph, that the working thereof is erratic, and the said, is a result of the Presiding Officer concerned, at his own whims rather the switching on and off the said system. The speaking (supra) thus loudly speak about the Presiding Officer, DRT-2, Chandigarh, thus to rob the well purpose qua the transparency of the justice dispensation system, and that too prima facie for ulterior motives, is undertaking the ill exercise of making the hybrid system with video and audio picture, to be rather dysfunctional.

Furthermore, since it is also spoken in the above extracted order that an intimation be made to this Court, whether the video recording of proceedings is being carried out or not. However, there is no further compliance affidavit purveyed to this Court nor when any deficit compliance thereto has been ensured to be remedied. Nonetheless, the above made speakings in the communication



addressed to this Court by the Presiding Officer, DRT-2, Chandigarh, but do, from the hereinabove made references, thus become completely belied.

In consequence, this Court deems it fit and appropriate to issue a show cause notice upon the Presiding Officer, DRT-2, Chandigarh, for the latter making an explanation to this Court as to why proceedings for contempt be not initiated against him for his making the above miscommunication, which but is prima facie completely ridden with lies.”

41. The submission of the appellant, therefore, does not carry any force.

42. Further, while the appellant has contended that the dismissal of his application seeking to intervene in SLP(C) no.11029/2024 has influenced the SRC to extend the suspension of the appellant, we find that the same was not the sole or persuasive reason; suspension was extended on a cumulative consideration of all facts and circumstances.

43. Equally, while we are in *prima facie* agreement with the submission of the appellant, that the reasons for continuation of his suspension as contained in the sealed cover produced by the respondent before the learned Single Judge, should have been disclosed to him in absence of any claim for privilege, at the same time, the reasons for the same were not only disclosed in the reply affidavit of the respondent, but were also discernable from the entire facts as presented before the learned Single Judge. For the said reasons alone, the Impugned Judgement cannot be faulted.

44. Coming to the submission of bias, we again do not find any merit in the same.



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45. We would also further note that though various grounds have been urged by the appellant in the Memo of Appeal, however, in the course of his oral submissions, he has not pressed the same, presumably because his two other Writ Petitions, on basis of the same or similar submissions, are still pending adjudication before the learned Single Judge. We are, therefore, refraining ourselves from dealing with the same.

46. We, therefore, find no merit in the present appeal. The same, along with the pending application, is dismissed.

47. There shall be no order as to costs.

NAVIN CHAWLA, J.

RENU BHATNAGAR, J.

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Click here to check corrigendum, if any