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

Decided on: 03.03.2025

+ W.P.(C) 15933/2024 & CM APPLs. 66981/2024, 75074/2024,
8490/2025

M M DHONCHAK

.....Petitioner

Through: Mr. Satyawan Kudalwal,
Advocate.

versus

UNION OF INDIA

.....Respondent

Through: Ms. Pratima N. Lakra, CGSC with
Mr. Chandan Prajapati, Ms.
Kashish G. Baweja, Advocates for
UoI with Mr. Sushan Gupta, Ms.
Suvarcha Mittal.
Mr. Sanjeev Bhandari, Advocate
for DRT Bar Association,
Chandigarh.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

1. The challenge in this writ petition is to an order of the Union of India ["UOI"] – Ministry of Finance dated 05.11.2024, by which the suspension of the petitioner from the post of Presiding Officer, Debts Recovery Tribunal ["DRT"]-II, Chandigarh, was extended for a period of 180 days beyond 09.11.2024.

A. Facts

2. The petitioner, a retired Judicial Officer, was appointed as the Presiding Officer, DRT-II Chandigarh, on 20.02.2022. According to the



respondent-UOI, various representations were received against him from the DRT Bar Association, Chandigarh, which were referred by the UOI to the Chairperson, Debts Recovery Appellate Tribunal [“DRAT”]-Delhi, who exercises general power of superintendence over the DRTs under his jurisdiction. During the pendency of the complaints, however, the members of the DRT Bar Association abstained from work on two days, and then filed a writ petition before the High Court of Punjab and Haryana¹ against orders passed by the petitioner herein, dismissing their proceedings on those days. On 27.10.2022², the High Court of Punjab and Haryana noted that the relationship between the DRT Bar Association and the Presiding Officer, i.e., the petitioner herein, was severely strained. While deprecating the conduct of the Bar Association, the High Court, in exercise of its powers of superintendence under Article 227 of the Constitution, restrained the petitioner from passing adverse orders in the matters pending before him.

3. Against this order, the petitioner, in his personal capacity, filed SLP(C) No. 21138/2022, in which certain interim orders were passed by the Supreme Court. The matter was ultimately left to the decision of the Chairman of the DRT/DRAT. Further orders were passed by the High Court in another writ petition, and by the Supreme Court, in an SLP filed by the petitioner herein, which are referred to below.

4. The Chairman of DRAT also furnished a preliminary report dated 10.07.2023. The UOI thereafter referred the matter to the Search-cum-Selection Committee [“SCSC”], constituted under the Tribunals Reforms

¹ Debts Recovery Tribunal Bar Association v. UOI & Ors., [CWP- 24795/2022].

² Annexure R/2 to the Counter Affidavit filed on behalf of the Respondent.



Act, 2021, which, in its meeting held on 24.08.2023, decided that an inquiry should be conducted against the petitioner by a former Chief Justice of a High Court, in accordance with Rule 9(3) of the Tribunal (Conditions of Service) Rules, 2021³. A former Chief Justice of the High Court of Jharkhand, Hon'ble Mr. Justice Virender Singh, was accordingly appointed as the Inquiry Officer. A chargesheet has also been issued to the petitioner on 26.02.2024.

5. Upon a recommendation of the SCSC dated 22.11.2023, the petitioner was placed under suspension by an order dated 13.02.2024, under Rule 16 of the Tribunal (Conditions of Service) Rules, 2021, read with the Central Civil Services (Classification, Control & Appeal) Rules, ["CCS (CCA) Rules"], 1965.

6. The petitioner made a request to UOI on 05.03.2024 for a change of the Inquiry Officer. The request was declined by the UOI by order dated 29.04.2024, and his subsequent request for review was also rejected by order dated 04.06.2024.

7. While these requests of the petitioner were pending, his initial period of suspension was coming to an end, as a result of which the matter was placed before the Suspension Review Committee ["SRC"] on 26.04.2024, and in accordance with its recommendations, his suspension was extended for a further period of 180 days, i.e., upto 09.11.2024.

8. In the interregnum, the learned Inquiry Officer, by a letter dated

³ **9. Procedure for inquiry into complaints.**— (3) *The Committee shall conduct an inquiry or cause an inquiry to be conducted by a person who is, or has been, a-*
(a) *Judge of Supreme Court or Chief Justice of a High Court, where the inquiry is against a Chairperson; or*
(b) *Judge of a High Court, where the inquiry is against a Member.*



29.05.2024⁴, withdrew from the inquiry in view of the petitioner's allegations against him.

9. The matter has been placed before the SCSC for nomination of a new Inquiry Officer.

10. In the meanwhile, UOI has passed the order, impugned in this petition, extending the petitioner's suspension by a further period of 180 days from 09.11.2024 to 08.05.2025.

B. Preliminary Points

11. It may be noted that the original order of suspension dated 13.02.2024 and the first extension dated 13.05.2024 have been challenged by the petitioner in W.P.(C) 5143/2024 and W.P.(C) 8478/2024, respectively. Those petitions are pending and scheduled to be listed on 01.04.2025. However, when the present petition was listed on 10.02.2025, the petitioner, who argued on that day in person, submitted that the present petition must be taken up for hearing urgently and independently of the other two writ petitions.

12. By an order dated 15.01.2025, this Court had declined an application for early hearing of this writ petition. The said order was challenged by the petitioner before the Supreme Court in SLP(C) No. 3084/2025. Although it was stated on 10.02.2025 that the Supreme Court had granted permission to withdraw the petition with liberty to mention the matter before this Court, the order of the Supreme Court has since been made available, and no such liberty has been granted.

13. In view of these contentions, this Court, by order dated 10.02.2025, recorded as follows:

⁴ Annexure R/20 to the Counter Affidavit filed on behalf of the Respondent.



“2. The impugned order is the second extension of suspension, which was originally effected by order dated 13.02.2024, and first extended by an order dated 13.05.2024. The said two orders are under challenge in W.P.(C) 5143/2024 and W.P.(C) 8478/2024 respectively. Although those petitions are next listed on 01.04.2025, learned counsel for the petitioner has mentioned this matter, which is listed today, for out of turn hearing. He submits that the petitioner approached the Supreme Court by way of a Special Leave Petition against the order of this Court dated 15.01.2025. It is stated at the Bar that the said Special Leave Petition was listed in the Supreme Court today, and the petitioner was given permission to withdraw the petition, with liberty to mention the matter before this Court.

3. This petition has, therefore, been taken up for hearing out of turn, in the presence of Ms. Pratima Lakra, learned Standing Counsel for the respondent-Union of India[“UoI”].

4. The petitioner, who has argued in person, has clearly submitted that this writ petition be taken up for hearing independently, and he does not wish to have the writ petition listed with the earlier writ petitions filed by him. He submits that this petition only challenges the extension order dated 05.11.2024, and the arguments will be limited to the validity of the order of extension, without raising grounds applicable to the original order of suspension or the first extension order, which are the subject matter of separate challenges.

5. Ms. Lakra is directed to apprise the Court on the next date of hearing with regard to the status of the inquiry proceedings against the petitioner, and also to produce the record of UoI relating to the impugned order dated 05.11.2024. Learned counsel for the petitioner and UoI will also prepare written submissions [not exceeding three pages] and a compilation of judgments, with regard to the grounds of challenge to an order of extension of suspension.”⁵

14. Pursuant to this order, learned counsel for the parties were heard, and the record was also produced by Ms. Lakra, learned Central Government Standing Counsel, in a sealed cover.

15. As this petition concerns a second extension of suspension, pending inquiry proceedings, I inquired of learned counsel for the parties, as to the status of the proceedings. The status, as provided by UOI, has

⁵ Emphasis supplied.



been mentioned above. However, significantly, learned counsel for the petitioner clearly submitted that the petitioner does not seek any directions in this writ petition with regard to expediting the inquiry. This has been expressly reiterated in paragraph 1 of the written arguments filed on behalf of the petitioner, in the following terms:

*“The petitioner submits that suspension of the petitioner extended for the second time for 180 days, i.e, up to 08.05.2025 vide order dated 05.11.2024 (Annexure P-1) in gross illegal manner affording a fresh and distinct cause of action because this extension of suspension, is something which has to survive independent of the fate of the original order of suspension as well as the first extension of suspension, is under challenge. **There is no prayer for expediting the Inquiry.**”⁶*

C. Objection as to territorial jurisdiction

16. The respondents have taken a preliminary objection with regard to the territorial jurisdiction of the Court. Ms. Lakra submits that, as the petitioner was the Presiding Officer of the DRT in Chandigarh, the petition ought to have been filed before the High Court of Punjab and Haryana. However, it is undisputed that the impugned decision is of the UOI, and was taken in New Delhi. Part of the cause of action has thus clearly arisen in New Delhi, and the petitioner is entitled to move this Court, in terms of the Article 226(2) of the Constitution. This objection is, therefore, rejected.

D. Analysis

17. I have perused the record, which has been produced by Ms. Lakra. It contains the Minutes of the Meeting of the SRC dated 23.10.2024, in which the facts of the case have been noted. It has specifically been noted that the petitioner had expressed apprehensions against the impartiality of

⁶ Emphasis supplied.



the erstwhile Inquiry Officer, as a result of which the Inquiry Officer had expressed his inability to continue.

18. The SRC has found that the petitioner had protracted the inquiry process, which would take some time to complete. The SRC also took note of an order dated 06.02.2024⁷, passed by the High Court of Punjab and Haryana, in which contempt proceedings have been initiated against the petitioner, for switching the audio and video of video-conference hearings on and off at his own whims, despite orders of the High Court. The High Court has found *prima facie* that this robs the transparency of judicial dispensation.

19. The SRC was also informed of an order of the Supreme Court dated 17.09.2024 in SLP(C) 11029/2024, in which an intervention application [I.A. No. 186471/2024], filed by the petitioner in his personal capacity, was dismissed, holding it to be “*completely misconceived*”. The petitioner had sought to intervene in contempt proceedings initiated against the Bar Association of DRT Vishakhapatnam, on the ground that he had faced similar misconduct by the DRT Bar Association, Chandigarh.

20. Being of the opinion that revoking his suspension would not be conducive to the conduct of a fair inquiry, the SRC recommended extension of his suspension for a further period of 180 days beyond 09.11.2024. The recommendation was placed before the UOI, and approved prior to the impugned order being issued.

21. Learned counsel for the petitioner submitted that the delay in conduct of the inquiry was not attributable to the petitioner, but to the



respondent. He submitted that the petitioner had only asserted his legal right to seek redress against a biased Inquiry Officer, and by filing of proceedings in the Constitutional Courts.

22. The factual basis of the decision of the SRC does not, in my view, call for interference of this Court under Article 226 of the Constitution. The most important reason for delay in the inquiry proceedings is that the learned Inquiry Officer has recused himself. This is a direct consequence of the petitioner's representations against him. Although the complaint made on 05.03.2024 was rejected on 29.04.2024, the petitioner sought review thereof, which was also rejected on 04.06.2024. The petitioner's apprehension led the Inquiry Officer to recuse himself from the proceedings, which has necessitated a further reference to the SCSC for nomination of a new Inquiry Officer. The SRC and UOI have relied upon this factual background. In my view, such an analysis is neither arbitrary nor unreasonable, so as to justify interference under Article 226 of the Constitution.

23. The judgments of the Courts, with regard to judicial review of suspension orders, lay down that interference with an order of suspension is normally unwarranted, unless the order is vitiated by breach of procedure, *mala fide*, or perversity. The Court normally considers the matter to be one within the domain of the employer, and does not enter into a relative assessment of the merits of the parties' cases at this stage.

24. It is pertinent to refer to the judgment of the Supreme Court in *U.P. Rajya Krishi Utpadan Mandi Parishad v. Sanjiv Rajan*⁸, wherein the

⁷ CWP-513-2024 (O&M) and CWP-1080-2024 (O&M).

⁸ 1993 Supp (3) SCC 483 (hereinafter, "U.P. Rajya Krishi Utpadan Mandi Parishad").



Supreme Court observed that the remedy against undue prolongation of inquiry proceedings is to direct time-bound completion thereof and increase in the subsistence allowance. To examine the aspect of delay, each case has to be considered on its own facts, and the writ Court should ordinarily be slow in interfering with such orders. The relevant observations in *U.P. Rajya Krishi Utpadan Mandi Parishad* are as under:

*“5. The ground given by the High Court to stay the operation of the suspension order, is patently wrong. There is no restriction on the authority to pass a suspension order second time. The first order might be withdrawn by the authority on the ground that at that stage, the evidence appearing against the delinquent employee is not sufficient or for some reason, which is not connected with the merits of the case. As happened in the present case, the earlier order of suspension dated March 22, 1991 was quashed by the High Court on the ground that some other suspended officer had been allowed to join duties. That order had nothing to do with the merits of the case. Ordinarily, when there is an accusation of defalcation of the monies, the delinquent employees have to be kept away from the establishment till the charges are finally disposed of. **Whether the charges are baseless, malicious or vindictive and are framed only to keep the individual concerned out of the employment is a different matter. But even in such a case, no conclusion can be arrived at without examining the entire record in question and hence it is always advisable to allow disciplinary proceedings to continue unhindered. It is possible that in some cases, the authorities do not proceed with the matter as expeditiously as they ought to, which results in prolongation of the sufferings of the delinquent employee. But the remedy in such cases is either to call for an explanation from the authorities in the matter, and if it is found unsatisfactory, to direct them to complete the inquiry within a stipulated period and to increase the suspension allowance adequately.** It is true that in the present case, the charge-sheet was filed after almost a year of the order of suspension. However, the facts pleaded by the appellants show that the defalcations were over a long period from 1986 to 1991 and they involved some lakhs of rupees. It also appears that the authorities have approached the police and in the police investigation, the amount of defalcation is found to be still more. Since the matter is of taking accounts which are spread over from 1986 to 1991 and of correlating the entries with the relevant documents, and several individuals are involved, the framing of charges was bound to take some time. **The Court has to examine each case on its own facts and decide whether the delay in serving the charge-sheet and completing the inquiry is justified or not.** However, in the present case, the High Court has not quashed the order of suspension on the ground of delay in framing the charges. As stated earlier, it has set aside the order of suspension on*



the ground that the authority had no power to pass the second order of suspension in the same case. We are afraid that the High Court has misconstrued the nature and purpose of the power of suspension vested in the management. It is not disputed that at present all officers concerned are served with the charge-sheets and have been suspended, There is no discrimination between the officers on that account. The charges are also grave and the authorities have come to the conclusion that during the disciplinary proceedings, the officers should not continue in employment to enable them to conduct the proceedings unhindered. Hence, we are satisfied that the order in appeal was not justified.

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10. We find from the charge-sheet that the allegations against the first respondent are grave inasmuch as they indicate that the amounts mentioned therein are not deposited in the bank and forged entries have been made in the passbook of the relevant accounts and the amounts are shown as having been deposited. In the circumstances, the High Court should not have interfered with the order of suspension passed by the authorities. The Division Bench has given no reason for upholding the learned Single Judge's order revoking the suspension order. In matters of this kind, it is advisable that the concerned employees are kept out of mischief's range. If they are exonerated, they would be entitled to all their benefits from the date of the order of suspension. **Whether the employees should or should not continue in their office during the period of inquiry is a matter to be assessed by the authority concerned and ordinarily, the Court should not interfere with the orders of suspension unless they are passed mala fide and without there being even a prima facie evidence on record connecting the employees with the misconduct in question.** In the present case, before the preliminary report was received, the Director was impressed by the first respondent-employee's representation. However after the report, it was noticed that the employee could not be innocent. **Since this is the conclusion arrived at by the management on the basis of the material in their possession, no conclusions to the contrary could be drawn by the Court at the interlocutory stage and without going through the entire evidence on record. In the circumstances, there was no justification for the High Court to revoke the order of suspension.**⁹

25. In *State of Orissa v. Bimal Kumar Mohanty*¹⁰ also, the Supreme Court emphasized that each case has to be considered on its own facts, and not on the basis of generalised standards.

⁹ Emphasis supplied.

¹⁰ (1994) 4 SCC 126.



26. In *Union of India v. Ashok Kumar Aggarwal*¹¹, the Court considered several authorities on the point, and summarized the legal position thus:

“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

¹¹ (2013) 16 SCC 147.



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.**¹²

27. Learned counsel for the petitioner, with his written submissions, has placed several judgments in support of the proposition that prolonged suspension and delay in conclusion of disciplinary proceedings may be to the detriment of the suspended employee. The proposition is unexceptionable, but each case must be considered on its own facts. In the facts of the present case, I do not consider the view taken by the UOI, upon the recommendations of the SRC, to be arbitrary or perverse. Having regard to the materials which were before them, no conclusion can be drawn, to discontinue the petitioner's suspension, contrary to the decision of the authorities. The allegations against the petitioner, and the observations of the High Court of Punjab and Haryana and the Supreme Court against him, make it difficult to mandate his continuation in a judicial position, during the pendency of the inquiry.

28. As noted above, the Court would have made an attempt to ensure that the detriment of prolonged suspension is alleviated, by considering the possibility of a time-bound inquiry. However, such consideration was foreclosed by learned counsel for the petitioner himself, who categorically submitted that the petitioner does not seek expedition of the

¹² Emphasis supplied.



inquiry proceedings. As extracted above¹³, he has repeated this stand in his written submissions. The petitioner has thus expressly declined an order of the nature indicated by the Supreme Court in *U.P. Rajya Krishi Utpadan Mandi Parishad*, as the appropriate order in cases of prolonged suspension and protracted inquiries. Such a stand, on the part of the petitioner, demonstrates an additional and important factor, which disentitles him to relief against the impugned order.

29. For the aforesaid reasons, I find no merit in the present writ petition, which is accordingly dismissed. All pending applications stand disposed of.

30. A copy of the record produced by Ms. Lakra has been placed in a sealed cover to be kept on record with the Registry.

PRATEEK JALAN, J

MARCH 03, 2025

“Bhupi/SS/pv/Jishnu”/

¹³ Paragraph 15, supra.