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

*Decided on: 03.07.2025*

+ W.P.(C) 7410/2023

ARUNA KUMAR

.....Petitioner

Through: Mr. Radhe Shyam Sharma & Mr.  
Vinayak Sameer, Advocates.

versus

ATMARAM SANATAN DHARMA  
COLLEGE & ORS.

.....Respondents

Through: Mr. Ankur Chhibber, Advocate for  
R-2.  
Mr. Mohinder JS Rupal, Mr.  
Hardik Rupal & Ms. Aishwarya  
Malhotra, Advocates for  
University.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**PRATEEK JALAN, J. (ORAL)**

1. The petitioner has filed this petition under Article 226 of the Constitution, for the following reliefs:-

*“1. Issue a Writ, Order or Direction, to the Respondents to increase the subsistence allowance of the Petitioner from 50% to 75% as per Rule 24 of University Non-Teaching Employees (Terms and Conditions of Service) Rules 2013 and as per Government of India Rules FR 53 (1) (ii) (a) with effect from 02.11.2022 and that the arrears be paid along with an interest of twelve percent per annum.*

*2. Pass such further order or orders which this Hon'ble Court may deem fit and proper in the present facts and circumstances of the present case in the interest of justice.”*

2. The petitioner joined the services of respondent No. 1-Atmaram



Sanatan Dharma College [“the College”] as Assistant-cum-Typist, in the year 2000. She was, thereafter, appointed as Stenographer on *ad-hoc* basis in the year 2004, and promoted to the post of Senior Personal Assistant on 23.08.2005.

3. While the petitioner was serving as Senior Personal Assistant to the Principal of the College, she was served with a show cause notice dated 01.07.2022, making certain allegations against her, including use of unparliamentary language against the Principal, and tampering with the College attendance register. She was placed under suspension by an office order dated 04.08.2022.

4. The College thereafter issued a chargesheet to the petitioner dated 28.10.2022, and by a further order of the same date, i.e. 28.10.2022, extended her suspension for a period of 180 days.

5. The petitioner submitted a reply to the chargesheet on 14.11.2022. This was considered by Governing Body of the College, and a resolution was passed on 30.12.2022, to initiate disciplinary proceedings against her. An Inquiry Officer was also appointed.

6. By a communication dated 28.02.2023, the Inquiry Officer fixed a preliminary hearing on 13.03.2023.

7. At the hearing on 13.03.2023, the petitioner stated that she wished to defend the proceedings, and proposed the name of a defence assistant. In view of an objection to the engagement of the proposed defence assistant, the Presenting Officer was granted time to reply to the petitioner’s application.

8. In the meanwhile, however, a hearing was held on 31.03.2023, at which the petitioner withdrew the name of the proposed defence assistant,



and proposed the name of an Advocate to be her defence assistant. She was permitted the assistance of the newly proposed defence assistant, and the matter was adjourned for management evidence. At the same hearing, the petitioner was permitted to inspect the documents for the purpose of preparing her defence by moving an appropriate application within one week from date of hearing, i.e. 31.03.2023, and was directed to furnish her list of witnesses within the same period.

9. The next hearing was held on 24.05.2023 at 11:30 AM. The minutes of the said hearing are as follows:—

**“The proceedings could not start at 11.30 A.M. as the DA could not reach in time.** I would like to mention here that at 11.03 A.M. a WhatsApp Call was received from the DA requesting to take up the inquiry proceedings at 1 P.M. The said request was turned down and the DA was informed that at the most I shall wait for 10-15 minutes. On the last date of hearing i.e. on 31.03.2023 the matter was adjourned for 06.05.2023 with the observation that "In the meantime, the CO is allowed to inspect the documents for the purpose of preparing her defence by moving an appropriate Application within a week. She shall also submit the list of the witnesses to be examined on her behalf within a week. "

**Inspite of the aforesaid directions, the CO neither moved any Application for inspection of the documents nor has submitted the list of the witnesses to be examined on her behalf.**

Today, Ms. Meenakshi Mohan DA makes oral request to inspect all the original documents annexed with the Charge Sheet.

The PO objects to the aforesaid oral request on the ground that as per Rule 66(11) maximum period of 30 days could have been granted to CO for inspection of documents and no time thereafter could have been granted. Since the period of 30 days have already been expired the right of CO to inspect the documents stands forfeited.

**In the interest of justice and in order to conduct the inquiry on merits, the CO is allowed to inspect the original documents annexed with the Charge Sheet. With the consent of the parties, date and time of inspection is fixed on 02.06.2023 at 02.30 P.M.** at the same venue with the observation that in case, the CO will not inspect the said documents on the aforesaid date and time, it shall be presumed



*that she does not require/want to inspect the said documents and the matter shall be proceeded further.*

*PO had filed three original evidence Affidavits of the Management Witnesses namely Mr. V.K. Mishra (MW1), Mr. Rajesh Makkar (MW2) and Mr. Deepak Kapoor (MW3), copy of which had already been provided to the CO by email on 04.05.2023. The CO admits having received the said Affidavits.*

*At this stage, DA states that these Evidence Affidavits should have been given to the CO along with the Charge Sheet, because these statements are part of fact finding inquiry.*

*With the consent of parties, matter is fixed for further proceedings on 05.07.2023 at 02.30 P.M in the Office of Public Information Officer, (PIO), ARSD Collage, Daula Kuan, New Delhi with the observation that the CO shall submit the list of the witnesses to be examined on her behalf within one week from 02.06.2023.*

*Copy of the proceedings given to both the parties.”*

[Emphasis supplied.]

10. By a further order dated 28.04.2023, the petitioner’s suspension was extended for a further period of 180 days.

11. While the matter stood thus, the petitioner filed the present writ petition. The relief sought, as extracted above, pertains only to quantum of subsistence allowance, for which she relies upon Rule 24 of the University Non-Teaching Employees (Terms and Conditions of Service) Rules, 2013 [“the Rules”].

12. The College has filed its counter affidavit on 27.07.2023, and an opportunity was given to petitioner to file a rejoinder thereto on 31.07.2023. Further opportunity for filing of the rejoinder was granted by orders dated 19.09.2023 and 15.02.2024, which was stated to be the last opportunity. However, no rejoinder was filed, and a specific statement was made before learned Registrar on 30.07.2024 that the petitioner does not wish to file a rejoinder.

13. Mr. Radhe Shyam Sharma, learned counsel for the petitioner, today



seeks further time to file rejoinder, and also states that there has been change of counsel and he has filed his *vakalatnama* only today.

14. I find from a perusal of the order sheets that Mr. Sharma has appeared regularly for the petitioner, from the very first day in the writ petition. His appearance is also recorded in several order sheets, including the last order dated 14.01.2025. In any event, even a change of counsel on the date of hearing, cannot constitute sufficient cause for an adjournment. Further, in view of the orders narrated above, Mr. Sharma's request for further time to file a rejoinder is rejected.

15. I have, therefore, proceeded to hear Mr. Sharma and Mr. Ankur Chhibber, learned counsel for the College, on merits.

16. It is undisputed that the inquiry proceedings have since concluded by an order of dismissal dated 22.12.2023. A copy of the said order has been handed up in Court and is taken on record. The petitioner has also challenged the dismissal order by way of W.P.(C) 11922/2024, which remains pending in this Court.

17. In these circumstances, Mr. Chhibber contends that the present petition has been rendered infructuous. However, Mr. Sharma submits that, even assuming the order of dismissal to be valid, the petitioner is entitled to enhancement of subsistence allowance for the period after 02.11.2022 to 22.12.2023, i.e. after the lapse of 90 days from the date of suspension until the order of dismissal.

18. Rule 24 of the Rules, relied upon by Mr. Sharma, to the extent it is relevant, provides as follows:

*“24. Pay during suspension-*

*1. (a) An employee under suspension or deemed to have been placed under suspension shall by an order of the appointing authority,*



during the period of suspension, draw subsistence allowance, at an amount equal to the leave salary which the employee would have drawn, if he had been on leave on half average pay or on half-pay and in addition, dearness allowance, if admissible on the basis of such leave salary:

Provided that where the period of suspension exceeds three months, the authority which made or is deemed to have made the order of suspension, shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first three months as follows:-

(i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 percent of the subsistence allowance admissible during the period of the first three months, if, in the opinion of the said authority the period of suspension has been prolonged for reasons to be recorded in writing not directly attributable to the employee;

(ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding 50 percent of the subsistence allowance admissible during the period the first three months, if in the opinion of the said authority, the period of suspension has been prolonged due to reasons, to be recorded in writing, directly attributable to the employee;

(iii) the rate of dearness allowance will be based on increased or, as the case may be, the decreased amount of subsistence allowance admissible under subclauses (i), (ii) above.

(b) Any other compensatory allowances admissible from time to time on the basis of pay of which the employee was in receipt on the date of suspension subject to the fulfillment of other conditions laid down for the drawal of such allowances.”

[Emphasis supplied.]

19. It is evident that the subsistence allowance is, at first, equivalent to the leave salary of the employee on basis of half average pay, and applicable dearness allowance, if any. Where the suspension exceeds three months, Rule 24(1)(a) (i) and (ii) of the Rules provide for variation by 50% of the initial subsistence allowance. The subsistence allowance may be enhanced if the suspension has been prolonged for reasons not directly attributable to the employee, and may be reduced by the same



proportion if the prolongation is for reasons directly attributable to the employee.

20. In the present case, it is the petitioner's contention that the suspension was prolonged for reasons not attributable to her and she is, therefore, entitled to an increase in subsistence allowance.

21. It may be noted that this contention has been raised by petitioner only after the second extension, issued on 28.04.2023. By this time, the chargesheet had been served upon her, she had filed her reply, and the Inquiry Officer had also been appointed. At the proceedings of the Inquiry Officer held on 13.03.2023, the petitioner proposed the name of a defence assistant, which she later withdrew, and a new defence assistant was appointed at her instance on 31.03.2023. The Inquiry Officer had granted time to the petitioner to inspect the documents and also submit her list of witnesses within one week from 31.10.2023, but she did not take the necessary steps within the aforesaid period.

22. The proceedings were next held on 24.05.2023, when the defence assistant first sought accommodation until 1:00 PM, and thereafter also sought further time to inspect documents. Although, this was objected to, the Inquiry Officer fixed the inspection on 02.06.2023, and scheduled further proceeding on 05.07.2023. The petitioner was directed to furnish her list of witnesses within one week from 02.06.2023.

23. A perusal of these orders, in my view, demonstrates that the petitioner was not entitled to the benefit of enhancement under Rule 24 (1)(a)(i) of the Rules, quoted above. During the period in question, the inquiry proceedings did not progress due to her request to change the defence assistant, and failure to inspect documents or to furnish her list of



witnesses within the time granted. The Inquiry Officer accepted her request for further time to undertake these procedural steps, which necessitated a further adjournment of the inquiry proceedings. It cannot be said, in these facts, that the suspension was prolonged for reasons not directly attributable to the petitioner.

24. Although Mr. Sharma sought to argue on the legality of the orders by which the petitioner's suspension was extended, I am not inclined to permit such arguments in the absence of any supporting pleadings or prayer.

25. As no other relief has been sought in the writ petition, the petitioner has failed to make out a case for orders under Article 226 of the Constitution. The writ petition is, therefore, dismissed.

26. It is made clear that observations in this judgment will not prejudice the rights and contentions of parties in the writ petition against the final order of dismissal.

**PRATEEK JALAN, J**

**JULY 3, 2025**

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