(2019) 08 CAL CK 0311

In the Calcutta High Court

Case No : C. Appeal From Order (FMA) No. 3541 Of 2015 In Writ Petition (W.P) No. 7288 (W) Of 2015

Allahabad Bank APPELLANT

Vs

Sandipta Gangopadhyay RESPONDENT

Date of Decision : 30-08-2019

Acts Referred:

Prevention Of Corruption Act, 1988 — Section 7
Allahabad Bank Officer Employees' (Discipline And Appeal) Regulation, 1976 — Rule 12(2)(a)
Constitution Of India, 1950 — Article 21
Allahabad Bank Officer Employees' (Discipline & Appeal) Regulations, 1976 — Regulation 12, 12(2), 12(2)(a)

Citation : (2019) 08 CAL CK 0311

Hon'ble Judges : Sahidullah Munshi, J

Bench : Single Bench

Advocate : Subir Sanyal, Subhro Prokash Lahiri

Final Decision : Disposed Of

Judgement

Sahidullah Munshi, J

This appeal has come up before me on reference by way of special assignment made by the then Hon'ble Chief Justice by an order dated 10.12.2018 in view of difference of opinion of the Hon'ble Judges of the Division Bench while deciding the appeal. I have heard the respective submissions of the appellant/Bank and the writ petitioner/respondent on the issues raised before the Division Bench while challenging the order of the learned Single Judge allowing the writ petition, as if I was a partner of the Appellate Bench and accordingly, I give my decision.

The appeal is directed against the judgment and order dated 21st April, 2015 passed by learned Single Judge of this Court whereby the writ petition W.P. No.7288 (W) of 2015 was allowed holding, inter alia, that indefinite period of suspension in case of the petitioner imposed with immediate effect was illegal and thereby setting aside the appellate order impugned dated 18th March, 2015 and the decision of the bank to continue the suspension of the petitioner and further permitting the petitioner to join such duties as the bank may assign to him by the beginning of May, 2015. Liberty was also granted to the bank to transfer the petitioner to some other branch by assigning duties that may not involve any contentious matter. It was directed that the petitioner should be communicated his next place of posting within a period of a week from date. It was held that the petitioner would be entitled to the regular salary emoluments from the day the petitioner resumes his duty. Issues involved in the writ petition were:

1) Whether a due suspension of an employee even on the allegation of bribery can be prolonged without any departmental proceeding and such suspended employee being involved in economic crime with moral turpitude cannot be transferred to any other branch even with lesser responsibility.

2) Whether the petitioner is entitled to get an order of reinstatement having regard to his enlargement of bail.

As aforesaid the fact involved in this case which has been taken into consideration by the Hon'ble Single Judge emerges from Mogra P.S. Case No. 316 dated 20.08.2014 under Section 7 of the Prevention of Corruption Act, 1988, which culminated into G.R. 1634 of 2014 pending before the learned Chief Judicial Magistrate, Hooghly and in pursuance whereof the petitioner was arrested by the police and since he remained in custody for over 48 hours, the Assistant General Manager and competent Authority issued an order of suspension on 23.08.2014 which was treated to be a deemed suspension on and from 28.08.2014 in terms of Regulation 12(2)(a) of the Allahabad Bank Officer Employees' (Disciplinary and Appeal) Regulations, 1976. The order of suspension issued on 23rd August, 2014 is set out below

"WHEREAS, Sri Sandipta Gangopadhyay, Senior Manager, Adisaptgram Branch has been arrested u/s 7 of The Prevention of Corruption Act-1988 and detained in Police Custody on a criminal allegation vide case No.316 dated 20.08.2014 under investigation by Mogra Police Station.

WHEREAS, Sri Sandipta Gangopadhyay is under detention exceeding froty eight hours.

NOW, the undersigned in the capacity of Competent Authority places the said Sri Sandipta Gangopadhyay, Senior Manager, Adisaptagram Branch under suspension, which will be under deemed suspension from 20.08.2014 in terms of Regulation 12(2)(a) of Allahabad Bank Officer Employees' (Discipline & Appeal) Regulations, 1976.

It is ordered that during the period the suspension remains in force, he will be entitled to Subsistence Allowances only as admissible under the said Regulations.

It is further ordered that during the period of suspension, he will not leave his station / Head Quarter without obtaining prior permission from the undersigned and he should notify the undersigned his address for communication. During the period of suspension, he will not enter into the premises of Adisaptgram Branch of the Bank or any other Branch / Office of the Bank and he may only enter the premises of the Branch where his Savings Bank account is maintained with proper permission from the Manager of that Branch for the purpose of operating his Savings Bank account and /or drawing the Subsistence Allowance payable to him, which he will get on furnishing a certificate that he is not engaged in any other employment, business, profession or vacation.

Let this order be communicated to Shri Sandipta Gangopadhyay, Senior Manager, Adisaptgram Branch immediately."

Record reveals that by an order dated 06.09.2014 in C.R. Misc. Case no. 102220/2014 the learned Sessions Judge, Hooghly, allowed the prayer of the petition for bail. Subject to the satisfaction of learned CJM, Hooghly after the bail was granted the petitioner filed a writ petition being W.P. 5762(w) of 2015 which was disposed of by the same learned judge whose order is impugned in this appeal, allowed the writ petition setting aside the order dated 19th January, 2015 whereby his prayer for revocation of the order of suspension was rejected. The Hon'ble Single Judge held that the order dated 19th January, 2015 did not indicate any reason in support of rejection. While allowing the writ petition the Chief Manager, Allahabad Bank was directed to reconsider the petitioner's plea for revoking the order of suspension in accordance with law after passing a reasoned decision. In pursuance of such order a decision indeed was taken on 18.03.2015 by the Deputy General Manager and Appellate Authority, Allahabad Bank but it was, inter alia, held "the allegation of accepting illegal gratification from a customer of the bank for sanctioning loan cast a doubt on his honesty and integrity. The image and reputation of the bank has been tarnished on account of his alleged act." The bank held that there was no mitigating factors for revocation of the order of suspension and the representation and/or appeal which was made before the authority, was rejected. Another ground for rejection of his prayer as pointed out by the bank that the order releasing the petitioner on bail was passed on 06.09.2014 whereas sanction under the provisions of Prevention of Corruption Act was made on 28.02.2015 that is a date subsequent to the order of granting bail. The bank opined that innocence or otherwise will be known only after the criminal case is disposed of. After such an order was passed by the Bank's Appellate Authority a writ petition being W.P. 7288(W) of 2015 was moved and the Hon'ble Single Judge by an order dated 21.04.2015 disposed of the writ petition holding, inter alia, that indefinite period of suspension in case of the petitioner should end with immediate effect. Accordingly, the impugned order passed by the Appellate Authority dated 18.03.2015 and the decision of the bank to continue the suspension of the petitioner was set aside. The petitioner was permitted to join such duties as the bank may assign to him by the beginning of May, 2015. It was also observed in the same order that it will be open to the bank to transfer the petitioner to some other branch or assign such duties that may not involve any contentious matter. The present appeal is directed against the said order of the Hon'ble Single Judge passed on 21.04.2015. It is the contention of the appellant before this Court that the Hon'ble Single Judge while passing the impugned order was influenced by the decision of the Hon'ble Apex Court in Ajay Kumar Choudhary -Vs. - Union of India reported in (2015) 7 SCC 291 which conclusively decided the issue of prolonged suspension of an employee suffering criminal proceeding. The said decision of Ajay Kumar (supra) based on the principle that while according to the Code of Criminal Procedure if an investigation cannot be completed within 90 days the petitioner is entitled to be enlarged on bail, why there should be a different stand that the petitioner's suspension from service should continue even if no charge-sheet or Memorandum of charges is not served on the delinquent officer/employee.

Mr. Sanyal, learned Counsel appearing for the Bank/appellant submitted that the Hon'ble Single Judge while considering the ratio in Ajay Kumar (supra) did not consider for a moment the other decisions on the same issue by the Hon'ble Apex Court even by its larger bench. Neither the learned Judge considered suo moto nor was it placed by the petitioner before the Hon'ble Single Judge. Mr. Sanyal attacks the Single Bench decision so far reliance on Ajay Kumar (supra) is concerned, he says, firstly, the decision is distinguishable on fact. He submitted that even slight difference in fact makes the judgment inapplicable and on that score he relies on a decision in the case of Bharat Petroleum Corpn. Ltd. and Anr. -Vs. - N.R. Vairamani and Anr. reported in (2004) 8 SCC 579. Relying on paragraph 9 of the said decision Mr. Sanyal argues that Court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Let us now see how the fact of Ajay Kumar (supra) and the fact in the given case are dissimilar to each other. Facts leading to the decision in Ajay Kumar (supra) was that the appellant before the Supreme Court assailed his order of suspension with effect from 30th September, 2011 and the same was extended and continued ever since. In November, 2006 he was posted as Defence Estate Officer (DEO) Kashmir Circle, Jammu and Kashmir. During his tenure it was discovered that a large portion of the land owned by the Union of India and held by the Director General, Defence Estates had not been mutated in the revenue records as Defence Land. Appellant's case was that between 2008-2009 office notes were prepared by his staff that approximately 4 acres of land were not defence lands, but were private lands in respect of which NOCs could be issued and such NOCs were, in fact, issued by the appellant. On 3rd April, 2010 the appellant was transferred to Ambala Cantonment. The appellant was asked to give his explanation for issuing the factually incorrect NOCs and he admitted his mistake but denied any mala fide in issuing the NOCs and attributed the issuance of the NOCs to the notes prepared by his subordinate staffs. In this background the appellant was placed under suspension on 30.09.11. Various fruitless litigations continued before the tribunal and ultimately, against the order refusing to grant relief against the order of extension of suspension he approached the Hon'ble

Apex Court and the Hon'ble Apex Court granted relief to him and made the order of suspension limited for a period of three months only. Mr. Sanyal distinguishes the fact of the appellant before the Supreme Court in Ajay Kumar (supra) saying that the appellant before this Court was arrested on 28.08.2014 on the basis of a complaint of bribery by one Mr. Moni Mojumdar, who lodged an FIR before the police. The allegation in the FIR shows that the petitioner went to the factory of the said Majumdar; demanded money for disbursement of a loan; petitioner took a bribe of Rs.25,000/- in a black plastic cover containing 50 pieces of Indian currency notes of Rs.500/-; entire incident was captured by CCTV which recorded the said currency notes and its numbers.

Therefore, according to Mr. Sanyal this is a case which is more specific inasmuch as entire episode has been recorded in CCTV and further that he has been caught red hand. He distinguishes the fact situation of the present case and that of Ajay Kumar (supra) to the extent that in Ajay Kumar (supra) case he issued no objection certificates based on the notes prepared by his subordinates. In the present case appellant himself was caught in the bribery case. On an analysis of the two situations I find that allegation involved in Ajay Kumar's (supra) case is more serious, not lighter than the present one, inasmuch as Ajay Kumar (supra) was blamed for misdealing with defence land and instead of holding those lands to be defence land he held it to be private land. The allegation is no less serious than the allegation in the case of the present writ petitioner/appellant. In this case petitioner/appellant is allegedly taking bribe from a private individual favouring sanction of a loan wherein in Ajay Kumar (supra) he has issued no objection, the ultimate result of which was that a big chunk of defence land was allowed to be converted into private land causing serious loss to the Defence Authority. The land measured about 4 acrs which was sought to be converted into private land and were sought to be mutated in the Revenue Records. Therefore, the argument of Mr. Sanyal that the fact situation in Ajay Kumar (supra) is such that its ratio cannot be made applicable to the present case, cannot, with due regard, be accepted. The ratio which was decided in Ajay Kumar (supra) is whether suspension could be a prolonged suspension to defeat speedy trial as envisaged under Article 21 of our Constitution and there the Hon'ble Apex Court laid down the law and made a comparison with the provision of filing charge-sheet in a criminal prosecution which is limited by 90 days. In my view, ratio in Ajay Kumar (supra) has rightly been applied by the Hon'ble Single Judge.

The second limb of argument advanced by Mr. Sanyal is that even if Ajay Kumar (supra) can be relied on but the learned Judge neither considered a previously decided decision by the Hon'ble Supreme Court on the same issue nor was the said decision placed before the Hon'ble Single Bench. Mr. Sanyal submitted that even 10 years of suspension was not considered to be a ground for exoneration which the Supreme Court decided in a case of Allahabad Bank and Anr. -Vs. - Deepak Kumar Bhola reported in (1997) 4 SCC 1. According to Mr. Sanyal this earlier decision of the Supreme Court was not considered in Ajay Kumar (supra) by the Hon'ble Single Judge nor was this decision ever placed before the Hon'ble Single Judge. In the said decision in Allahabad Bank (supra) also the question of moral turpitude was involved and that too in the selfsame bank where the CBI conducted an investigation and registered a case pursuant to which the Superintendent of police asked the Bank to accord sanction for prosecuting the respondent/delinquent. The bank accorded the requisite sanction and also, resorting to Clause 19.3 of the first bipartite settlement, 1966 suspended the respondent. The charge-sheet filed in the court by the police showed that the respondent had participated in false issuance of cheque books and had withdrawn money through a fake account with another bank by depositing the cheques issued from both cheque books. The High Court set aside the suspension order. In such background fact of the case in Allahabad Bank (supra) the Hon'ble Apex Court held where offence involving 'moral turpitude' must depend upon the facts of each case. However, one of the most serious offences involving 'moral turpitude' could be a bank where a person employed in a banking company dealing with money of the general public, commits forgery and wrongfully withdraws money which he is not entitled to withdraw. This is a case where really a question of moral turpitude is involved where he dealt with public money in a most heinous and fraudulent manner and he was placed under suspension but Hon'ble Apex Court held that the High Court ought not to have quashed the order of suspension. Although, the respondent in Allahabad Bank (supra) and the petitioner/appellant herein is also the bank employee but the gravity in the earlier decision is much more serious than the present one. I do not say that both cannot be equated but still there is a distinction. The fact that employee suspended pending criminal trial for wrongfully withdrawing money which he was not entitled to withdraw by abusing his position cannot be placed at par with suspension of an employee pending criminal trial where he is implicated with a case that he demanded bribe and/or received cash money as against sanction of loan in favour of private individual. Each case has its own fact. In the said case the Hon'ble Apex Court held that the respondent employee being a Clerk cum Typist in Allahabad Bank was found to have abusing his position being a Clerk and therefore, CBI investigation was started. The charge-sheet which was filed in the criminal proceeding by the CBI discloses un-authorized issuance of cheques for huge sum of money not once but a chain of offences at the instance of the Clerk cum typist in conspiracy with others. The fact leads to a clear case of criminal conspiracy indicative of the accused in a big racket of defrauding public money by itself is a distinguishing feature. Therefore, although, both the cases may have some direct connection with moral turpitude but yet there is a sharp distinction and perhaps it will not be wrong to hold that Supreme Court while passing the judgment in Ajay Kumar (supra) would not have changed its mind had the said decision in Allahabad Bank (supra) been placed before the Hon'ble judges deciding Ajay Kumar (supra). The mere omission to take note of a previously decided decision does not render the subsequent decision per in curium. The most striking difference between the two cases is that in Allahabad Bank (supra) decision the Bank itself prosecuted the respondent/employees concerned whereas in the present case a third party alleged to have paid money as bribe to the appellant instituted the criminal prosecution. Therefore, in my view it cannot be conclusively held that it Allahabad Bank (supra) had been referred to the Hon'ble Judges of the Supreme Court before deciding Ajay Kumar (supra) the ratio decided in Ajay Kumar (supra) would have been different. The ratio in Allahabad Bank (supra) is that where a criminal prosecution is based on moral turpitude, employee's suspension should not be quashed on ground of delay. And that the respondent/employee in Allahabad Bank (supra) case was prosecuted among other provisions with 120B of the Indian Penal Code. The ratio in the Allahabad Bank (supra) case was whether the bank objectively found anything against the employee on moral turpitude which could justify placing the employee under suspension. Where the Hon'ble Apex Court considering the CBI case and its investigation, particularly, the charge-sheet filed held that High Court was wrong in holding that there was no objective consideration by the management of the Bank to place the employee under Suspension and consequently the order passed by the High Court quashing the said order of suspension. In this case the ratio is whether a prolonged suspension can continue even after the petitioner is released on bail and that even after expiry of 90 days no charge could be framed by the Bank Authority against the petitioner/appellant. A decision is an authority for what he decides and not what can logically be deduced therefrom. Therefore, submission by Mr. Sanyal based on Allahabad Bank (supra) does not help the appellant/Bank.

The third limb of argument by Mr. Sanyal is that since I have held that the ratio in two decisions are different, Mr. Sanyla's argument on per in curium based on the case in State of Bihar -Vs. - Kalika Kuer alias Kalika Singh and Ors. reported in (2003) 5 SCC 448 is not applicable.

So far the decision relied on by Mr. Sanyal in the case of Birbhum District Primary School Council & Anr. -Vs. - Md. Mokhtar Hossain & Ors. reported in (2009) 1 CHN 476 and its binding effect on the present case, it can be said that no absolute proposition with regard to speedy trial has been laid down so that it would be binding on Justice Bannerjee in deciding the present appellant's case before the Single Bench.

The last limb of argument advanced by Mr. Sanyal that the delinquent was placed under suspension the suspension had to be prolonged because the criminal prosecution was initiated by a third party who obtained loan after allegedly bribing the appellant. The documents involving the criminal prosecution, according to the appellant/Bank, are all lying in the Court which is in seisin with the criminal prosecution. Therefore, according to the Bank although, it contemplated for a departmental proceeding but it could not be done due to absence of documents.

Mr. Lahiri learned counsel appearing for the appellant submitted that it is palpably wrong in making such submission that the Bank is helpless to initiate departmental proceeding because they are not having the documents with them.

Mr. Lahiri has pointed out before this Court from the Appellate Authority's order dated 18th March 2015 where the said authority at page 71 of the paper book observed "now, the entire records of the case along with relevant papers/ documents have been placed before me for taking a decision in the matter. I, as Appellate Authority, have gone through the entire records, applied my mind and observed as under ......"

Having regard to such position it cannot be perceived that the Bank Authority's explanation for not initiating departmental proceeding is for want of papers. The appellant has not canvassed before this Court what are the documents the Bank Authorities have placed in support of the evidence. No explanation is forthcoming as to the stage of the criminal prosecution and the Bank's role therein. The complaint was filed in September, 2013 and the impugned order was passed by the Hon'ble Single Judge on 21st April, 2015. Mr. Lahiri submitted that it is intentional on the part of the bank authority to continue the suspension and not to initiate any departmental proceeding independently. He submitted that it is mala fide attempt on the part of the management to harass the appellant both financially and socially. He submitted that there is no connection with the nature of allegation and prolongation as allegation is yet to be proved in criminal Court and suspension being part of service rule cannot be equated. The suspicion and/ or allegation whatever grave has to be established and/ or proved by evidence. Simply on the basis of allegation put a person under suspension for a prolonged period cannot be justified at all. The Bank in fact, has been depriving him from his right to live and other civil liberties. Such right to live is guaranteed under Article 21 and in effect a fundamental right. This right to live includes right to fair and speedy trial as has already been discussed by the Hon'ble Apex Court in Hossainara Khatoon Vs. Home Secretary State of Bihar reported in AIR 1979 SC 1360 where Court even directed release of under trial prisoners where no charge-sheet has been framed. The Court also held that States financial constraints should not stand in the way to avoid this constitutional obligation. Direction was also issued for setting up new Courts, providing more staffs and equipment and appointment of additional judges. The concept of fair trial has been envisaged under article 21 which entails familiar triangulation of this interest of the accused, the victim. A fair trial is aimed at ascertaining the truth to all concerned. It has been held by our Courts that to accord fair trial meaning thereby fair hearing either to the accused or to the prosecution violate even minimum standards of due process of law. Denial of right of accused to adduce evidence in support of his defence amounts to denial of fair trial. In a case where the appellant is accused in criminal breach of trust by taking money from someone else who has lodged a complaint against him that the accused compelled the complainant to give money to favour with an order of granting loan is a serious allegation against a bank employee and such bank employee when is faced with the criminal trial, it is expected that the criminal trial should be proceeded with without delay because until and unless such trial is over neither the allegation of the complainant could be proved nor the accused would able to prove that the allegation levelled against him are false and baseless which right pertains to his right to live guaranteed under Article 21 of the Constitution. The Bank in this case resorted to place the appellant under deemed suspension having regard to the appellant's arrest and remaining in custody over 48 hours. To this Mr. Lahiri submitted that under provisions of Rule 12(2)(a) of Allahabad Bank Officer Employees' (Discipline and Appeal) Regulation, 1976, the appellant was placed under suspension with effect from 23.08.2014 and five years by now have already elapsed. The petitioner is devoid of his full salary where he has earned a disrepute too and passing his days with mental agony and unlimited uncertainty. The provisions which have been referred to before this Court are the provisions of Allahabad Bank Officer Employees' (Discipline and Appeal) Regulation, 1976. Regulation 5 says that the authority may institute disciplinary proceedings and impose penalties. Regulation 12 provides for suspension of an employee by the competent authority which speaks that where a disciplinary proceeding against the employee is contemplated or is pending he can be placed under suspension; or where a case against him in respect of criminal offence is under investigation, inquiry or trial he can be placed under suspension. Regulations 12(2) however, says that an officer shall be deemed to have been placed under suspension by an order of competent authority with effect from the date of detention, if detained in custody, whether at a criminal charge or otherwise, for a period of exceeding 48 hours. Taking records to such provision the delinquent was placed under suspension and such suspension was continuing till before the impugned order was passed. And even today the said order of suspension is continuing in view of the divergence of opinion between to two partners of the Division Bench as it reveals from the record. The submission has been made on behalf of the Bank Authorities that they have no other option but to place the employee under Suspension in compliance of Regulation 12(2) of the said Regulation of 1976. It is true that suspension order was passed because of the appellant's detention in custody over 48 hours but at the same time the regulations prescribe for an inquiry through departmental proceedings. Simply because the matter is pending before the criminal Court it is no excuse for the authority to sit tight and not to initiate departmental proceeding. There is no law today to create a bar for departmental proceeding against the employee concerned on the ground that a criminal proceeding is pending against him and only after acquittal from the criminal trial he may be reinstated, does not justify prolonged suspension. Therefore, the authority, in my view has not acted bona fide in complying with the procedures prescribed under their own regulation. When the regulation becomes a complete Code the authority ought to have moved independent of the criminal prosecution and should have investigated departmentally to find out the wrong with the said employee. Having not done so the excuse shown by it that papers are not available with it to initiate departmental proceeding cannot be supported. Interference made by the impugned order against the prolonged suspension does not warrant interference in this appeal. In my view, there is nothing wrong in the order impugned. Suspension is an executive action whereby a government servant is kept out of duty temporarily pending final decision being taken against him for acts of indiscipline or like way. Provision for suspension has been made in service rules as its own object. It is beneficial both for the employee and the employer. Suspension pending departmental enquiry is a safeguard against the government servant interfering with and hamparing the preliminary investigation and tamparing with material evidence either oral and documentary. In case of involvement in criminal proceedings, the charges usually involved moral turpitude. Suspension is ordered for smooth continuity of the departmental proceeding without being influenced in any way at the instance of the delinquent. An order of suspension of a government servant is not by way of punishment. The object of putting under suspension is to put the employee temporarily out from the office for the purpose of ongoing departmental proceeding. Therefore, when departmental proceeding is not contemplated at all, this cannot be the only object to place the employee under suspension and for him to be satisfied with a limited payment of his salary. This prolonged suspension is opposed to the due process of law in our constitution. Because it cannot be the public policy to abridge a person's right ordinarily to continue with the job for which he has been engaged. If he is alleged to have committed any wrong or guilt the same itself cannot be construed a punishment. Any allegation labelled against an employee is to be enquired into by the procedure established by law or prescribed under the rules and regulations. Rules and regulations where are sufficient for a departmental inquiry the authority cannot bypass the same and cause the sufferance of the employee to suffer suspension for a prolonged period without being communicated the reasons for such prolonged suspension. Our constitution guarantees life or liberty of a person, however, guilty he may be, without complying with the procedural requirement of due process, is invalid. Therefore, in my view, prolonged suspension opposes due process focused in the Constitutional mandates. "Due Process" is the process of law which hears before it condemns, which proceeds upon enquiry, and renders judgment only after trial. Therefore, it can be opined that criminal charges or assertion of substantial civil liability, and criminal trial is required. The employment of the employee is subject to certain limitation prescribed by the regulations. The curtailment of the employees' rights from his right to enjoy benefits pertaining to service cannot be unlimited. If by invoking a particular provision the employee concerned is placed under suspension, the other provisions in the same regulation will automatically gets revived to be followed promptly to put an end to the proceeding and such proceeding is definitely the departmental proceeding which the authority has failed to initiate, although, he has been placed under suspension under regulation.

In my view the authority's decision to prolong the suspension without initiation of the departmental proceeding is opposed to the due process of law emerged from the Constitution. The petitioner is entitled to get all benefit pursuant to the order impugned.

Reference made before this Court is thus, disposed of.

Urgent Photostat certified copy of this judgment, if applied for, be given to the learned advocates for the respective parties upon compliance of all formalities.

