
(1995) 10 MP CK 0035
In the Madhya Pradesh High Court
Case No : Writ Petition No. 1428 of 1995

Brahmadutt Kedarnath Gupta

APPELLANT

Vs

Municipal Corporation and Others

RESPONDENT

Date of Decision : 30-10-1995

Acts Referred:

Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 — Rule 5, 9(2)

Citation : (1996) 41 MPLJ 132 : (1996) MPLJ 132

Hon'ble Judges : T.S. Doabia, J

Bench : Single Bench

Advocate : S.P. Jain, for the Appellant; R.A. Roman, for the Respondent

Judgement

T.S. Doabia, J.

The order of suspension passed against the petitioner is being challenged. The challenge is made on the ground that the respondents did not serve the charge-sheet within a period specified in the rules. To be more precise, it has been stated that under the rules the charge-sheet is required to be served within forty-five days of the order of suspension. The petitioner places specific reliance on Rule 9(2-a) of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966. This rule reads as under :

"9(2-a) Where a Government servant is placed under suspension under clause (a) of sub-rule (1), the order of suspension shall contain the reasons for making such order and where it proposed to hold an enquiry against such Government servant under Rule 14, a copy of the articles of charges, the statement of imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained shall be issued or caused to be issued by the disciplinary authority to such Government servant as required by sub-rule (4) of Rule 14, within a period of 45 days from the date of order of suspension :

Provided that where the disciplinary authority is the State Government, the copy of charges and other documents mentioned above shall be issued or caused to be issued to such Government servant within a period of 90 days from the date of order of suspension."

Another rule which is required to be taken note of is that 5(a) and (b) of the aforementioned rules. This read as under :

(5)(a) An order of suspension made or deemed to have been made under this rule, shall continue to remain in force until it is modified or revoked by the authority competent to do so.

"Provided that the order of suspension shall stand revoked on expiry of the period of forty five days from the date of order of suspension in case a copy of charges and other documents referred to in sub-rule (2-a) are not issued to such Government servant by the disciplinary authority (if it is not the State Government) without obtaining the orders of the State Government for extension of the period for issue of the said documents, as required under sub-rule (2-b) :

Provided further that the order of suspension shall stand revoked on expiry of the period of 90 days from the date of order of suspension, in case the copy of charges and other documents referred to in sub-rule (2-a) are not issued to such Government servant."

(b) In respect of a Government servant, whose orders of suspension stand revoked in accordance with the first or second proviso of clause (a) the authority competent may, if it considers expedient so to do, place him under suspension after a copy of charges and other documents, as required by sub-rule (4) of Rule 14 have been issued to him."

On plain reading of the above rules something can be said in favour of the petitioner. The charge-sheet was served upon the petitioner after forty-five days. But the fact remains that enquiry in this case has since proceeded and some witnesses have already been examined. As such, it would not be apt to interfere with the order of suspension at this stage. The fact that the competent authority can pass a fresh order under Rule 5(b) has been taken note of for coming to this conclusion.

As a matter of fact in Government of A.P. Vs. V. Sivaraman, in somewhat similar circumstances; the Supreme Court upheld the order of suspension.

In view of the above; the following directions are given :

(i) that, the enquiry be conducted within a period of three months; and

(ii) that, the Corporation would consider the case of the petitioner in terms of Rule 5(a) and (b) of the rules referred to above and would pass a specific order as to whether continuance of the petitioner under suspension is still required or not. An order to this effect be passed within a period of fifteen days of the receipt of this order.

This petition is disposed of accordingly.