

(2021) 01 SHI CK 0119
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 4487 Of 2020

Er. Rahul Sharma

APPELLANT

Vs

HPSEBL And Anr

RESPONDENT

Date of Decision : 08-01-2021

Acts Referred:

Central Civil Services (Classification, Control And Appeal) Rules, 1965 — Rule 10(7), 14

Citation : (2021) 01 SHI CK 0119

Hon'ble Judges : Sureshwar Thakur, J;Chander Bhusan Barowalia, J

Bench : Division Bench

Advocate : Rakesh Kumar Dogra, Lakshay Thakur

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J

1. The writ petitioner, in pursuance, to, Annexure RA-1, wherein allegations are borne, vis-À-vis, his producing, a, forged certificate, of, Technical

Education, of, Monal University, Hapur, H.P., on anvil whereof, he obtained employment, under the respondents concerned, was asked to face an

inquiry, under Rule 14, of, CCS CCA Rules, 1965. His suspension in pursuance thereof occurred on 3rd July, 2020. Since Rule 10(7), of, CCS CCA

Rule, 1965, enjoins upon the employer/disciplinary authority, to, within three months thereafter, inasmuch as, on or before 3rd October, 2020, make

review of the order of suspension, inasmuch as, taking to revoke it, or to extend it, yet the afore mandate becomes breached, by the disciplinary

authority. The learned counsel for the writ petitioner, contends that, hence the respondents/disciplinary authority, be directed to, ipso facto, make an

order, of, revocation, of, the order of suspension, as became made on 3rd July, 2020.

2. Even though, Rule 10(7) of CCS CCA Rules 1965, does hold contemplation(s) for the afore review, becoming made within a period of 90 days, since the making, of, the order of suspension, and also, though therein occurs, a, mandate, qua validity thereof, surviving upto 90 days, excepting, upon, the afore order becoming reviewed or becoming extended, by the employer/disciplinary authority concerned. However, the afore statutory mandate, cannot become capitalized, by the writ petitioner, for his seeking, a, mandamus, upon, the respondents concerned, that upon breach of the afore statutory provisions, hence becoming indulged into, by the employer/disciplinary authority, his becoming entitled to forthwith seek revocation, of, the impugned order of suspension. The reason for making the afore conclusion becomes aroused from the disclosure(s) existing in the reply, furnished, on affidavit, to the extant writ petition, by the respondents concerned, (a) more especially, upon, apt reliance being made, upon, Annexure RA-5(iii), wherein a mandate becomes cast, upon, the delinquent/writ petitioner to make his appearance(s) before the inquiry officer concerned, rather on the scheduled dates, as becomes mentioned therein, (b) yet the petitioner failing/ omitting to do so. Moreover, also despite his headquarter(s), becoming fixed, and, besides, his being, directed to, perform his duties thereat, rather his without any leave, being asked for, nor being granted to him, his willfully absenting from duties, and also, his not in terms of FR-53(2), furnishing the requisite certificate, whereupon, all the afore derelictions tantamount(s) to his mis-conducting himself, (c) hence even during the period of his suspension, as made through, the impugned order, and whereafter, the disciplinary authority concerned, subjected him to face inquiry proceedings. Since, the making of Annexure RA- 5(iii), which became issued, on 19.09.2020, and wherefrom emanate(s) a vivid depiction(s), qua his, within the period of longevity, of, the apposite order, of, suspension, hence to be computed from 3rd July, 2020, rather his making the afore mis-conduct(s), (d) thereupon(s), vis-À-vis, the afore completest dereliction(s), besides his omission(s) to face departmental proceedings, whereupon, dehors the valid longevity, of, the apposite period of 90 days, expiring, and, hence within tenure(s), whereof he became entitled to seek either review thereof or extension thereof, besides he became entitled to seek ipso facto revocation thereof, rather forbids him to espouse for the afore relief. Furthermore, since the granting of subsistence allowance, to him, is subject to his remaining in

attendance at the station concerned or the headquarter concerned, whereas his making abstentions therefrom, therefore, he cannot become entitled to,

seek, a, mandamus, upon, the respondent, for, directing them to release, his subsistence allowance.

3. Consequently, the extant writ petition is dismissed, so also pending application(s), if any. However, it is clarified that, if till the conclusion(s) of the inquiry(ies), the petitioner makes his appearance(s) before the inquiry officer concerned, thereupon, the respondents concerned, may accord to him, pro rata subsistence allowance. No costs.