

(2001) 01 SC CK 0146

In the Supreme Court Of India

Case No : Civil Appeal No: 5015 of 2000

New India Assurance Co. Ltd.

APPELLANT

Vs

S.M.I. Kazim and Others

RESPONDENT

Date of Decision : 17-01-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 90 FLR 1125 : (2001) 1 LLJ 1700

Hon'ble Judges : G. B. Pattanaik, J;B. N. Agrawal, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. This appeal by the New India Assurance Company is against the judgment of the Division Bench of the Allahabad High Court in a writ petition filed challenging an order of suspension pending departmental enquiry. We are little shocked and surprised to find this sort of an order from a Division Bench of a High Court where the High Court, without indicating any reasons, has directed that the Government servant shall be paid full salary, and allowances and/or other benefits without even being compelled to discharge his duty and further a direction to complete the inquiry within three months.

2. An order of suspension during the pendency of a departmental inquiry is ordinarily not interfered with by the High Court in exercise of its jurisdiction under Article 226 of the Constitution until and unless the Court comes to a conclusion that the order has been mala fide passed; or that the appropriate authority has not passed the order of suspension. This Court has also indicated in a catena of decisions as to how difficult it is to establish the allegations of mala fides. But, in the case in hand, there has been a total silence on the part of the High Court to indicate what persuaded the learned Judges to pass this sort of an order which tantamounts to quashing the order of suspension.

3. In the aforesaid circumstances, we have no other alternative than to quash

the impugned direction of the High Court. We further observe that the respondent who has been suspended shall continue to get the subsistence allowance in accordance with the rules. The High Court by the impugned order had directed to conclude the inquiry within three months from the date of the order. It transpires that the Chief Vigilance Commissioner has appointed an Enquiring Officer to inquire into the allegations made and instead of concluding the proceedings, the proceedings have been adjourned sine die. The learned Additional Solicitor General states that the aforesaid order of adjournment sine die is on account of the fact that the delinquent did not co-operate with the Enquiring Officer. Mr. Mehta, the learned senior counsel appearing for the delinquent, however, disputes the non-cooperation on the part of the delinquent. Needless to mention that if the delinquent does not co-operate notwithstanding due opportunities having been given, there would be no bar for the Enquiring Officer to proceed ex-parte and conclude the proceedings within the time-frame given by a Court.

4. In the aforesaid circumstances, we direct that the inquiry in question may be completed within four months from today. We hope and trust that the delinquent officer instead of avoiding the inquiry, should cooperate with the Enquiring Officer in the matter of conclusion of the inquiry proceedings.

5. With the aforesaid observation and directions the appeal stands disposed of.