

(2014) 08 SHI CK 0019
In the High Court Of Himachal Pradesh
Case No : CWP No. 2794 of 2014

Shyam Lal

APPELLANT

Vs

Himachal Pradesh State Electricity Board Limited

RESPONDENT

Date of Decision : 01-08-2014

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19(4)

Citation : (2014) 08 SHI CK 0019

Hon'ble Judges : Sureshwar Thakur, J;Rajiv Sharma, J

Bench : Division Bench

Advocate : M.L. Sharma, Advocate for the Appellant; Richa Sharma, Advocate for the Respondent

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—Disciplinary proceedings were initiated against the petitioner under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 on 12.7.2013. He was placed under suspension. His Headquarters were fixed in the office of Senior Executive Engineer, City Electrical Division, H.P.S.E.B. L Shimla. Charge-sheet was issued to the petitioner on 4.12.2013. According to the charge-sheet, petitioner has embezzled an amount of Rs. 30,055/- between 1.7.2005 to 15.7.2013. Disciplinary Authority reviewed the suspension order on 2.12.2013 whereby the subsistence allowance was increased by 50%. According to sub-rule 6 of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, an order of suspension is to be reviewed by the competent authority before the expiry of 90 days from the effected date of suspension on the recommendation of the Review Committee constituted for this purpose. The competent authority can either extend or revoke the suspension. According to sub-rule (7) of rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 an order of suspension cannot to be valid after the period of 90 days unless it is extended after review for a further period before the expiry of 90 days.

2. In the instant case, suspension order is dated 12.7.2013 and was required to be reviewed within a period of 90 days. Disciplinary Authority has reviewed order only on 2.12.2013. The order was also required to be passed on the recommendation of the Review Committee constituted for this purpose. Since the order has been reviewed by the competent authority after a period of 90 days with effect from 12.7.2013, the suspension order could not be valid beyond 90 days.

3. This legal proposition is no more *res integra* in view of the law laid down by their Lordships of the Hon"ble Supreme Court in *Union of India (UOI) and Others Vs. Dipak Mali*, . Their Lordships have held as under:

"10. Having carefully considered the submissions made on behalf of the parties and having also considered the relevant dates relating to suspension of the Respondent and when the Petitioner's case came up for review on 20th October, 2004, we are inclined to agree with the views expressed by the Central Administrative Tribunal, as confirmed by the High Court, that having regard to the amended provisions of Sub-rules (6) and (7) of Rule 10, the review for modification or revocation of the order of suspension was required to be done before the expiry of 90 days from the date of order of suspension and as categorically provided under Sub-rule (7), the order of suspension made or deemed would not be valid after a period of 90 days unless it was extended after review for a further period of 90 days.

11. The case sought to be made out on behalf of the petitioner, Union of India as to the cause of delay in reviewing the Respondent's case, is not very convincing. Section 19(4) of the Administrative Tribunals Act, 1985, speaks of abatement of proceedings once an original application under the said Act was admitted. In this case, what is important is that by operation of Sub-rule (6) of Rule 10 of the 1965 Rules, the order of suspension would not survive after the period of 90 days unless it was extended after review. Since admittedly the review had not been conducted within 90 days from the date of suspension, it became invalid after 90 days, since neither was there any review nor extension within the said period of 90 days. Subsequent review and extension, in our view, could not revive the order which had already become invalid after the expiry of 90 days from the date of suspension."

4. In the case in hand also, suspension order dated 12.7.2013 would not be valid after the period of 90 days. Order dated 2.12.2013 would not revive order dated 12.7.2013, which had already become invalid after the expiry of period of 90 days.

5. Accordingly, in view of the discussion and analysis made hereinabove, the writ petition is allowed. Order of suspension dated 12.7.2013 is declared invalid on the expiry of 90 days. Pending application, if any, also stands disposed of. There shall, however, no order as to costs.