

IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH

DATED THIS THE 10TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.101210 OF 2025 (S-RES)

R

BETWEEN:

SHANKAR YAMANAPPA TALAWAR
AGED ABOUT 47 YEARS
OCC: SERVICE
R/O H.NO.87/F. YS COLONY
PURANDARA EXTENSION
DHARWAD – 580 004.

... PETITIONER

(BY SRI SHREEVATSA HEGDE, ADVOCATE)

AND:

- 1 . THE CHIEF EXECUTIVE OFFICER AND
EXECUTIVE MEMBER
KIADB, CENTRAL OFFICE 4TH FLOOR
EAST WING, KHANIJA BHAVAN
RACE COURSE ROAD, BENGALURU – 01.
- 2 . THE SECRETARY (ADMINISTRATION)
KIADB, 4TH AND 5TH FLOOR
KHANIJA BHAVAN, RACE COURSE ROAD
BENGALURU – 01.
- 3 . THE STATE OF KARNATAKA
BY THE SECRETARY

INDUSTRIES AND COMMERCE
2ND FLOOR, VIKASA SOUDHA
BENGALURU – 01.

... RESPONDENTS

(BY SRI BASAVARAJ V.SABARAD, SENIOR ADVOCATE A/W.,
SRI SHASHANK S.HEGDE, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENTS TO REVOKE THE SUSPENSION ORDER DATED 19-12-2022 VIDE ANNEXURE-E REINSTATE HIM.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before this Court seeking a direction by issuance of a writ in the nature of mandamus to the respondents to revoke his suspension and grant all consequential benefits.

2. Heard Sri Shreevatsa Hegde, learned counsel appearing for the petitioner and Sri Basavaraj V.Sabarad, learned senior counsel appearing for the respondents.

3. Facts, in brief, germane are as follows: -

3.1. The petitioner joins the service of the Karnataka Industrial Areas Development Board (hereinafter referred to as 'the Board' for short) as a Stenographer on 11-03-2003. He is subsequently promoted and at the relevant point in time was working as a Senior Assistant at the office of the Board at Dharwad Division. The petitioner was transferred on 13-12-2022 to the office of the Executive Engineer, Davangere Zonal Office. The petitioner when he moves to report for duty at Davangere, suffers a cardiac arrest and was operated upon at SDM Narayana Heart Centre.

3.2. The petitioner then on 19-12-2022 comes to be placed under suspension on several allegations of financial irregularities committed along with other officials, in the capacity of being a Senior Assistant with regard to payment of compensation to particular land losers amounting to ₹20/- crores. The charge sheet was not issued against him, as the suspension was in contemplation of disciplinary proceedings. Since no charge sheet was issued against him despite passage of 6 months, the petitioner submits a representation in the month of June 2023, seeking revocation of

suspension on the aforesaid score of non-issuance of charge sheet against him and commencement of departmental enquiry in terms of Rule 10(5)(b) of the of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 ('the Rules' for short). In the interregnum, the CID of Dharwad Unit had also registered an FIR in Crime No.2451 of 2022 against the petitioner and other officials working in the Board. Sanction was also sought for prosecution of the petitioner and accordingly, charge sheet in C.C.No.1072 of 2023 was filed before the III Additional Senior Civil Judge and CJM, Dharwad by the CID.

3.3. The petitioner also brought to the notice of the Competent Authority that suspension order is deemed to have been revoked in terms of the said Rule. The petitioner was also extended the benefit of subsistence allowance long after placing the petitioner was under suspension. Two years pass by. No charge sheet is issued and the petitioner was continued under suspension. It is then he approaches this Court in the subject petition seeking a direction of revocation of suspension. After filing of the present petition, the Board initiated a departmental enquiry against the

petitioner and issued a show cause notice-cum-charge sheet against the petitioner, alleging that the petitioner had a role to play in the payment of ₹80,04,166/- compensation to one Smt. Yallavva and Smt. Shantavva Rudrappa in respect of land in Sy.No.198/2A/3, Dharwad and causing loss to Government. This is the first time the petitioner was issued with a charge sheet after having been placed under suspension three years ago. On the said score of the petitioner continuing under suspension, the subject petition is filed seeking the aforesaid prayer.

SUBMISSIONS:

PETITIONER:

4. The learned counsel appearing for the petitioner would vehemently contend that under Rule 10 of the Rules, continuation of suspension without adherence to Rule 10(5) is itself illegal. There is no departmental enquiry initiated against the petitioner by issuing a charge sheet for more than two years. There are no allegations against the petitioner made even in the charge sheet. They are all vague with regard to payment of compensation. The

petitioner is not the Competent Authority to pay any compensation. The learned counsel for the petitioner seeks to place reliance upon plethora of judgments of the Apex Court and that of Division Benches and coordinate Bench of this Court to buttress his submission with regard to right of revocation of suspension. The learned counsel would further contend that the petitioner was placed under suspension for a reason different from the one disciplinary proceedings are now initiated. No documents that are necessary to be furnished along with the charge sheet are even furnished to the petitioner. Once notice is issued from the hands of this Court, it is only then the charge sheet is issued against the petitioner. On all the aforesaid scores, the learned counsel seeks revocation of the order of suspension.

BOARD:

5. Per contra, the learned senior counsel representing the Board would vehemently refute the submissions in contending that amended Rule 10 is indicative that only if enquiry is not commenced against the delinquent Government servant, it comes into operation. The Board had initiated departmental enquiry and

the Crime Investigation Department also had filed a charge sheet in the criminal case. The action of the petitioner amounts to gross misconduct and irregularities that are committed causing loss to the Board. The learned senior counsel would submit that the Competent Authority to accord sanction for the purpose of placing the petitioner under suspension was the CEO and Executive Member and the petitioner is not an employee who was on deputation. He also places reliance upon certain judgments which deal with suspension of an employee. The learned senior counsel submits that if the petitioner is reinstated, there is every likelihood of tampering of documents and influencing the ongoing enquiry or the criminal investigations. Therefore, the petition must be dismissed.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

CONSIDERATION:

7. The afore-narrated facts are not in dispute. The entry of the petitioner into the services of the Board is a matter of record.

He is promoted as a Senior Assistant on 17-08-2019. The petitioner is then transferred to the office of the Executive Engineer, Davangere Zonal Office of the Board. Pursuant to the order of transfer, the petitioner is relieved from the services at Dharwad and was directed to report at Davangere. The relieving order reads as follows:

“ಕ್ರ.ಸಂ: ಕಕ್ಯೆಪ್ರಮಂ/ಭೂಸ್ವಾ/ಧಾ/1028/2022-23

ದಿನಾಂಕ:13-12-2022.

-:: ಬಿಡುಗಡೆ ಆದೇಶ ::-

ವಿಷಯ : ಮಾನ್ಯ ಮುಖ್ಯ ಕಾರ್ಯನಿರ್ವಹಣಾಧಿಕಾರಿಗಳು ಹಾಗೂ ಕಾರ್ಯ ನಿರ್ವಾಹಕ ಸದಸ್ಯರು, ಕ.ಕ್ಯೆ.ಪ್ರ.ಅ.ಮಂ., ಬೆಂಗಳೂರು ಇವರ ಆದೇಶದ ಮೇರೆಗೆ ಶ್ರೀ.ಶಂಕರ ವೈ. ತಳವಾರ ಹಿರಿಯ ಸಹಾಯಕರು, ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ಕಾರ್ಯಾಲಯ, ಕೆಐಎಡಿಬಿ, ಧಾರವಾಡ ಇವರನ್ನು ಈ ಕಾರ್ಯಾಲಯದಿಂದ ಬಿಡುಗಡೆಗೊಳಿಸುವ ಕುರಿತು.

ಉಲ್ಲೇಖ : ಮಾನ್ಯ ಮುಖ್ಯ ಕಾರ್ಯನಿರ್ವಹಣಾಧಿಕಾರಿಗಳು ಹಾಗೂ ಕಾರ್ಯ ನಿರ್ವಾಹಕ ಸದಸ್ಯರು, ಕ.ಕ್ಯೆ.ಪ್ರ.ಅ.ಮಂ., ಬೆಂಗಳೂರು ಇವರ ಆದೇಶದ ಸಂಖ್ಯೆ:ಕಕ್ಯೆಪ್ರಅಮಂ/ಕೇಂಕ/ಆಡಳಿತ-1046(10/13384)/2022-23 ದಿನಾಂಕ:29-10-2022.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಹಾಗೂ ಉಲ್ಲೇಖನಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಶ್ರೀ.ಶಂಕರ ವೈ. ತಳವಾರ, ಹಿರಿಯ ಸಹಾಯಕರು, ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ಕಾರ್ಯಾಲಯ, ಕೆಐಎಡಿಬಿ, ಧಾರವಾಡ ಇವರನ್ನು ತಕ್ಷಣದಿಂದ ಅನ್ವಯವಾಗುವಂತೆ ಹಾಗೂ ಮುಂದಿನ ಆದೇಶದವರೆಗೂ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರ ಕಛೇರಿ, ಕೆಐಎಡಿಬಿ, ದಾವಣಗೆರೆ ವಲಯ ಕಛೇರಿ, ದಾವಣಗೆರೆ ಇಲ್ಲಿಗೆ ಉಲ್ಲೇಖಿತ ಪತ್ರದನ್ವಯ ವರ್ಗಾವಣೆಗೊಳಿಸಿ ಆದೇಶಿಸಲಾಗಿದೆ.

ಮಾನ್ಯರ ಆದೇಶದಂತೆ ಶ್ರೀ.ಶಂಕರ ವೈ. ತಳವಾರ, ಹಿರಿಯ ಸಹಾಯಕರು, ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ಕಾರ್ಯಾಲಯ, ಕೆಐಎಡಿಬಿ, ಧಾರವಾಡ ಇವರನ್ನು ದಿನಾಂಕ:13-12-2022 ರಂದು ಅಪರಾಹ್ನ ಈ ಕಛೇರಿಯಿಂದ

ಬಿಡುಗಡೆಗೊಳಿಸಿ, ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರ ಕಛೇರಿ, ಕೆಐಎಡಿಬಿ, ದಾವಣಗೆರೆ ಇವರ ಕಛೇರಿಗೆ ಹಾಜರಾಗಲು ಈ ಮೂಲಕ ಆದೇಶಿಸಿದೆ.

ಸಹಿ/-

ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳು,
ಕರ್ನಾಟಕ ಕೈಗಾರಿಕಾ ಪ್ರದೇಶಾಭಿವೃದ್ಧಿ ಮಂಡಳಿ,
ಧಾರವಾಡ.”

The petitioner, as narrated hereinabove, suffers cardiac arrest and is treated at SDM Narayana Heart Centre which disabled him from reporting for duty immediately. The petitioner then is placed under suspension, not for delayed reporting to duties, but on certain irregularities allegedly committed during his tenure at Dharwad. The order of suspension reads as follows:

“ಮುಖ್ಯ ಕಾರ್ಯನಿರ್ವಾಹಣಾಧಿಕಾರಿ ಹಾಗೂ ಕಾರ್ಯನಿರ್ವಾಹಕ ಸದಸ್ಯರು, ಕರ್ನಾಟಕ ಕೈಗಾರಿಕಾ ಪ್ರದೇಶಾಭಿವೃದ್ಧಿ ಮಂಡಳಿ, ಬೆಂಗಳೂರು ಇವರ ನಡವಳಿಕೆಗಳು

ವಿಷಯ : ಶ್ರೀ. ಶಂಕರ್ ವೈ ತಳವಾರ್, ಹಿರಿಯ ಸಹಾಯಕ. ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ವಿಭಾಗ. ಕೆಐಎಡಿಬಿ. ವಲಯ ಕಛೇರಿ. ದಾವಣಗೆರೆ ಇವರನ್ನು ಕರ್ತವ್ಯ ಲೋಪ ಆರೋಪದಡಿ ಅಮಾನತ್ತು ಮಾಡುವ ಬಗ್ಗೆ

ಉಲ್ಲೇಖ : 1.ವಿಶೇಷ ಜಿಲ್ಲಾಧಿಕಾರಿ. ಕೆಐಎಡಿಬಿ (ಬಿ.ಎಂ.ಐ.ಸಿ.ಪಿ), ಬೆಂಗಳೂರು ಇವರ ನೇತೃತ್ವದಲ್ಲಿ ರಚಿಸಲಾದ ತಂಡವು ದಿನಾಂಕ :14-12-2022 ರಂದು ನೀಡಲಾದ ತನಿಖಾ ವರದಿ.

2. ವಿಶೇಷ ಜಿಲ್ಲಾಧಿಕಾರಿ, ಕೆಐಎಡಿಬಿ (ಬಿ.ಎಂ.ಐ.ಸಿ.ಪಿ), ಬೆಂಗಳೂರು ಇವರ ದಿನಾಂಕ: 19-12-2022 ರ ಮುಂದುವರೆದ ತನಿಖಾ ವರದಿ.

ಪ್ರಸ್ತಾವನೆ :-

ಶ್ರೀ.ವಿ.ಡಿ.ಸಜ್ಜನ್ ಇವರು ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿ, ಕೆಐಎಡಿಬಿ, ವಲಯ ಕಛೇರಿ, ಧಾರವಾಡ ಇಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಪರಿಹಾರ ಪಾವತಿ ಮಾಡಿರುವ ಕುರಿತು ಆಗಿಂದಾಗ್ಗೆ ಸಾರ್ವಜನಿಕರಿಂದ ಸಾಕಷ್ಟು ದೂರುಗಳು ಸ್ವೀಕೃತವಾಗಿದ್ದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಸದರಿ ಎಲ್ಲಾ ಪ್ರಕರಣಗಳಲ್ಲಿ ಈ ಕೆಳಕಂಡ ವಿಷಯಗಳ ಬಗ್ಗೆ ಸಮಗ್ರವಾಗಿ ಪರಿಶೀಲನೆ/ತನಿಖೆ ನಡೆಸುವ ಸಲುವಾಗಿ ತಂಡವನ್ನು ರಚಿಸಲಾಗಿತ್ತು.

1. ಭೂಸ್ವಾಧೀನಪಡಿಸಿದ ಜಮೀನುಗಳಿಗೆ ಪರಿಹಾರ ಪಾವತಿ ಮಾಡಿರುವ ಪ್ರಕರಣಗಳು.
2. ಒಂದೇ ಜಮೀನಿಗೆ ಎರಡು ಬಾರಿ ಭೂಪರಿಹಾರವನ್ನು ಪಾವತಿ ಮಾಡಿರುವ ಪ್ರಕರಣಗಳು.
3. ನಿಗದಿತ ಭೂಪರಿಹಾರಕ್ಕಿಂತ ಹೆಚ್ಚುವರಿ ಭೂಪರಿಹಾರ ಪಾವತಿ ಮಾಡಿರುವ ಪ್ರಕರಣಗಳು.
4. ಅಧಿಸೂಚಿತ ಖಾತೆದಾರರ ಬದಲಾಗಿ ಇತರರಿಗೆ ಪರಿಹಾರ ಪಾವತಿ ಮಾಡಿರುವ ಪ್ರಕರಣಗಳು.
5. ಅಗತ್ಯ ದಾಖಲಾತಿ ಮತ್ತು ನಿಯಮಗಳನ್ನು ಪಾಲಿಸದೇ ಭೂಪರಿಹಾರ ಪಾವತಿ ಮಾಡಿರುವ ಪ್ರಕರಣಗಳು.

ಸದರಿ ತಂಡವು ಉಲ್ಲೇಖಿತ ಪತ್ರದನ್ವಯ ತನಿಖಾ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು. ಈ ಕೆಳಕಂಡ ಅಧಿಕಾರಿ/ಸಿಬ್ಬಂದಿಗಳನ್ನು ಒಳಗೊಂಡಂತೆ ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿ, ಕೆಐಎಡಿಬಿ ವಲಯ ಕಛೇರಿ, ಧಾರವಾಡ ವ್ಯಾಪ್ತಿಯ ಮಮ್ಮಿಗಟ್ಟಿ, ಕೆಳಗೇರಿ, ಕೋಟೂರು ಹಾಗೂ ಇತರೆ ಗ್ರಾಮಗಳ ಭೂಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ. ಭೂಪರಿಹಾರ ಪಾವತಿಸುವಲ್ಲಿ ನಿಯಮಾನುಸಾರ ಕ್ರಮವನ್ನು ವಹಿಸದೇ. ಕರ್ತವ್ಯ ಲೋಪ ಮತ್ತು ಮಂಡಳಿಗೆ ರೂ. 19,99,55,000/- ಗಳ ಆರ್ಥಿಕ ನಷ್ಟ ಉಂಟು ಮಾಡಿರುವುದಾಗಿ ವರದಿಯಲ್ಲಿ ತಿಳಿಸಿರುತ್ತಾರೆ.

- 1) ಶ್ರೀ.ವಿ.ಡಿ.ಸಜ್ಜನ್, ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿ (ನಿವೃತ್ತ), ಕೆಐಎಡಿಬಿ, ವಲಯ ಕಛೇರಿ, ಧಾರವಾಡ.
 - 2) ಶ್ರೀ. ಎಂ. ಕೆ. ಶಿಂಪಿ ವ್ಯವಸ್ಥಾಪಕರು, ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ವಿಭಾಗ, ಕೆಐಎಡಿಬಿ, ವಲಯ ಕಛೇರಿ, ಧಾರವಾಡ.
 - 3) ಶ್ರೀ. ಶಂಕರ್ ವೈ ತಳವಾರ್, ಹಿರಿಯ ಸಹಾಯಕ, ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ವಿಭಾಗ, ಕೆಐಎಡಿಬಿ, ವಲಯ ಕಛೇರಿ, ದಾವಣಗೆರೆ.
 - 4) ಶ್ರೀ. ಹೇಮಚಂದ್ರ ಬ. ಚಿಂತಾಮಣಿ, ನಿವೃತ್ತ ಶಿರಸ್ತೆದಾರ್, ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ವಿಭಾಗ, ಕೆಐಎಡಿಬಿ, ವಲಯ ಕಛೇರಿ, ಧಾರವಾಡ.
- ಅದರಂತೆ, ಕೆಳಕಂಡ ಆದೇಶ ಹೊರಡಿಸಿದೆ:

:: :: ಆದೇಶ :: ::

ಸಂಖ್ಯೆ: ಕ.ಕೈ.ಪ್ರ.ಮಂ/ ಕೇಂ.ಕ/ಭೂ.ಸ್ವಾ-1972-8/16063/2022-23 ದಿನಾಂಕ: 19-12-2022

ಶ್ರೀ. ಶಂಕರ್ ವೈ ತಳವಾರ್, ಹಿರಿಯ ಸಹಾಯಕ, ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ವಿಭಾಗ, ಕೆಐಎಡಿಬಿ. ವಲಯ ಕಛೇರಿ, ದಾವಣಗೆರೆ ಇವರು ಈ ಹಿಂದೆ ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ವಿಭಾಗ, ಕೆಐಎಡಿಬಿ, ವಲಯ ಕಛೇರಿ, ಧಾರವಾಡ ಇಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದ ಅವಧಿಯಲ್ಲಿ ಕರ್ತವ್ಯ ಲೋಪ ಎಸಗಿ ಮಂಡಳಿಗೆ ಆರ್ಥಿಕ ನಷ್ಟ ಉಂಟುಮಾಡಿರುವ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಸದರಿಯವರನ್ನು ಕರ್ನಾಟಕ ಕೈಗಾರಿಕಾ ಪ್ರದೇಶಾಭಿವೃದ್ಧಿ ಮಂಡಳಿಯ ಸೇವಾ ನಿಯಮಾವಳಿಗಳ ಅಧ್ಯಾಯ (8), ನಿಯಮ 62 ಮತ್ತು 63 ರಡಿ ಪ್ರತ್ಯಾಯೋಜಿಸಲಾದ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ, ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ ನಿಯಮಾವಳಿ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) 1957 ರ ನಿಯಮ 10 (ಡಿ) ರನ್ವಯ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ಬಾಕಿಯಿರಿಸಿ, ತಕ್ಷಣದಿಂದ ಅನ್ವಯವಾಗುವಂತೆ ಮುಂದಿನ ಆದೇಶದವರೆವಿಗೂ ಅಮಾನತ್ತಿನಲ್ಲಿರಿಸಿ, ಆದೇಶಿಸಿದೆ.

ಶ್ರೀ. ಶಂಕರ್ ವೈ ತಳವಾರ್, ಹಿರಿಯ ಸಹಾಯಕ, ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ವಿಭಾಗ, ಕೆಐಎಡಿಬಿ ವಲಯ ಕಛೇರಿ, ದಾವಣಗೆರೆ ಇವರು ಅಮಾನತ್ತು ಅವಧಿಯಲ್ಲಿ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ ನಿಯಮಾವಳಿ 1957 ರಲ್ಲಿ ನಿಗದಿಪಡಿಸಿರುವಂತೆ, ಜೀವನಾಧಾರ ಭತ್ಯೆಯನ್ನು ಪಡೆಯಲು ಅರ್ಹರಾಗಿರುತ್ತಾರೆ.”

The order places the petitioner under suspension under Rule 10, in contemplation of disciplinary proceedings due to *prima facie* evidence of gross dereliction of duty against him, as obtaining under Rule 10(d) of the Rules. The order of suspension is passed on 19-12-2022.

8. The suspension of employees of the Board is regulated by the adoption of the Rules. The Rules undergo an amendment in the

year 2020. Rule 10(5) of the Rules is substituted in terms of a Notification dated 29-10-2020. The Notification reads as follows:

**"DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE
REFORMS
NOTIFICATION
No: DPAR 28 SDE 2018 Bengaluru, Dated: 29.10.2020.**

Whereas the draft of the Karnataka Civil Services (Classification, Control and Appeal) (Amendment) Rules, 2020 which the Government of Karnataka proposes to make in exercise of the powers conferred by section 3 read with section 8 of the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990) was published as required by clause (a) of sub-section (2) of section 3 of the Karnataka State Civil Services Act, 1978 in Notification No. DPAR 28 SDE 2018, in part IVA (PR No. 159) of the Karnataka Gazette dated 02nd May 2020 inviting objections and suggestions from all persons likely to be affected thereby within fifteen days from the date of its publication in the Official Gazette.

Whereas, the said Gazette was made available to the public on 02nd May 2020.

And Whereas objections and suggestions received in this behalf have been considered by the Government.

Now, therefore in exercise of the powers conferred by sub section (1) of section 3 read with section 8 of the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990) the Government of Karnataka hereby makes the following rules.

RULES

1. **Title and Commencement**, - (1) These rules may be called the Karnataka Civil Services (Classification, Control and Appeal) (Amendment) Rules, 2020.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. **Amendment of rule 10,-** (1) In rule 10 of the said rules,-
(i) for sub-rule (5), the following shall be substituted, namely,-

“(5) (a) Subject to sub-rule (3), where a competent authority in an organization authorised to investigate cases against Government servants under the provisions of the Prevention of Corruption Act, 1988 (Central Act No. 49 of 1988) or the Karnataka Lokayukta Act, 1984 (Karnataka Act 4 of 1985) finds during investigation that there is a prima facie evidence against a Government servant and recommends that he may be placed under suspension, the authority competent to place such a Government servant under suspension may place him under suspension.”

(b) If departmental inquiry is not commenced against the delinquent Government Servant or charge sheet is not filed in the court within a period of six months from suspension, the competent authority shall decide whether to revoke or continue suspension of such Government Servant and unless decided and ordered for continuation within this period, the suspension shall be deemed to have been revoked i.e. from the date of completion of a period of six months from the date of suspension. Upon such revocation of the order of his suspension, it shall be the duty of the Government servant to immediately seek order of posting from the appointing authority, failing which he shall be deemed to be on unauthorised absence with effect from the date of revocation of the order of his suspension.

Provided that the authority competent to place a Government servant under suspension may extend the period of suspension beyond the period specified in this clause, only after consulting, within the said period, with the authority referred in clause (a) only if such authority recommends extension within the said period. Otherwise, the order placing the Government servant under suspension shall stand revoked automatically under this clause.

(ii) Sub-rule (6) shall be omitted.

Note: on revocation of suspension, the Government servant shall not be posted to the same place/post from which he was suspended.

By order and in the name of
Governor of Karnataka.

Sd/-

(CHANDRAHAS G. TALUKAR)
Deputy Secretary to Government
Department of Personnel and
Administrative Reforms
(Service Rules-2)"

(Emphasis supplied)

Rule 10 of the Rules, now reads as follows:

"10. Suspension, -

(1) The Appointing Authority or any authority to which it is sub-ordinate or any other authority empowered by the Government in this behalf may place a Government servant under suspension.

(a) Where there is prima facie evidence to show that he was caught red handed while accepting gratification other than legal remuneration by the persons authorized to investigate under the provisions of the Prevention of Corruption Act, 1988 or under any other law;

(aa) Where there is prima facie evidence to show that he was found in possession or had at any time during the discharge of his official duty been in possession of pecuniary resources or property disproportionate to known source of income, by the persons authorized to investigate offences under the Prevention of Corruption Act, 1988 or under any other law.

(b) Where a charge sheet is filed before competent court against him for any offence involving moral turpitude committed in the course of his duty; or

(c) Where a charge sheet is filed before the competent court against him on charges of corruption, embezzlement or criminal misappropriation of Government money;

(d) Where there is prima facie evidence of gross dereliction of duty against him.

"Provided that, where the order of suspension is made by an authority empowered by Government in this behalf which is lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

(2) A Government servant shall be deemed to have been placed under suspension by an order of appointing authority –

(a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise for a period exceeding forty-eight hours;

(b) with effect from the date of his conviction, if in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Explanation, - The period of forty-eight hours referred to in clause (b) of these sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment if any, shall be taken into account.

(3) The authority competent to place a Government servant under suspension shall examine the relevant material relating to the case and consider whether there is prima facie evidence to support the charges made against the Government servant and if it is satisfied on

such examination that prima facie evidence exists, it may place the Government servant concerned under suspension.

(4) xxx

(5) (a) Subject to sub-rule (3), where a competent authority in an organization authorized to investigate cases against Government servants under the provisions of the Prevention of Corruption Act, 1988 (Central Act No.49 of 1988) or the Karnataka Lokayukta Act, 1984 (Karnataka Act 4 of 1985) finds during investigation that there is a prima facie evidence against a Government servant and recommends that he may be placed under suspension, the authority competent to place such a Government servant under suspension may place him under suspension.

(b) If departmental inquiry is not commenced against the delinquent Government Servant or charge sheet is not filed in the court within a period of six months from suspension, the competent authority shall decide whether to revoke or continue suspension of such Government Servant and unless decided and ordered for continuation within this period, the suspension shall be deemed to have been revoked i.e., from the date of completion of a period of six months from the date of suspension. Upon such revocation of the order of his suspension, it shall be the duty of the Government servant to immediately seek order of posting from the Appointing Authority, failing which he shall be deemed to be on unauthorized absence with effect from the date of revocation of the order of his suspension.

Provided that authority competent to place a Government Servant under Suspension may extend the period of suspension beyond the period specified in this clause, only after consulting, within the said period, with the authority referred in clause (a) only if such authority recommends extension within the said period. otherwise, the order placing the Government Servant under suspension shall stand revoked automatically under this clause.

(6) xxx

Note: on revocation of suspension, the Government Servant shall not be posted to the same place/post from which he was suspended

(7) xxx

..... .."

(Emphasis supplied)

Sub-rule (5) of Rule 10 comes to be amended by introducing a deeming clause. The amendment, imbued with both procedural clarity and substantive rigour, introduced a deeming provision of considerable consequence. It ordained that, where within a span of 6 months from the date of suspension, no departmental enquiry is initiated, signified by issuance of a charge sheet or in criminal cases no charge sheet is laid before the Court, the Competent Authority is duty bound to deliberate upon the continuation or revocation of such suspension. In the absence of an express order, extending the suspension within this stipulated period, the suspension shall, by operation of law, stand automatically revoked upon completion of 6 months. Upon such revocation, a corresponding obligation arises upon the Government servant to

promptly seek an order of posting from the appointing authority. Failure to do so, invites the consequence of being treated as being on unauthorized absence from the date of revocation. The Rule further carries an instructive note mandating that upon revocation, the employee shall not be reinstated to the very post or station from which he was originally suspended.

9. From the language of the amended provision, a principle emerges with unmistakable clarity, the continuance of suspension beyond 6 months is not to be presumed or prolonged by inertia. It demands an active, reasoned decision by the Competent Authority. In its absence, the law itself intervenes, dissolving the suspension and resorting to the employee's right to reinstatement, *albeit*, at a different posting. It is the aforesaid Rule that governs the issue in the *lis*.

10. Turning to the facts at hand, the petitioner is placed under suspension on 19-12-2022 thereby, setting the six months period to culminate on 18-06-2023. The petitioner, mindful of his rights under the amended Rule, submitted a representation seeking

revocation of his suspension. The representation goes unheeded. The petitioner then is said to have represented for payment of subsistence allowance, that again is paid only after one year of placing the petitioner under suspension. Time, relentless in its passage, bore witness to two full years elapsing without any decisive action, neither was the suspension revoked nor was a departmental enquiry commenced against the petitioner.

11. It is well settled in law that a departmental enquiry can be said to commence only upon issuance of a charge sheet, not by a mere act of suspension or issuance of a show cause notice. Confronted with this inaction, the petitioner was compelled to invoke the jurisdiction of this Court on 06-02-2025, seeking a writ, in the nature of mandamus, to bring an end to the suspension that had, by operation of law, already outlived its legitimacy. This Court sought an explanation from the hands of the Competent Authority as to why despite passage of 30 months of placing the petitioner under suspension, the suspension is not revoked. The order dated 18-02-2025 reads as follows:

"Learned counsel Sri.P.N.Hatti is directed to accept notice for respondent Nos.1 and 2.

Learned HCGP is directed to accept notice for respondent No.3.

Petitioner to serve set of papers upon the aforesaid counsel forthwith.

Respondent Nos.1 and 2 shall explain as to why the suspension the petitioner is not revoked, despite passage of close to 30 months of placing the petitioner under suspension.

List this matter on 21.02.2025 in the fresh matters list."

Again on 31-10-2025, the matter is listed before this Bench and this Court passed the following order:

"ORAL ORDER

This Court on 18-02-2025 had passed the following order:

Learned counsel Sri.P.N.Hatti is directed to accept notice for respondent Nos.1 and 2.

Learned HCGP is directed to accept notice for respondent No.3.

Petitioner to serve set of papers upon the aforesaid counsel forthwith.

Respondent Nos.1 and 2 shall explain as to why the suspension the petitioner is not revoked, despite passage of close to 30 months of placing the petitioner under suspension.

List this matter on 21.02.2025 in the fresh matters list."

The observation was that despite passage of 30 months of placing the petitioner under suspension, the suspension was not revoked. Therefore, explanation was sought. Ten months have passed by, no explanation comes about.

Learned counsel for the respondent now submits that he is no longer in the panel and therefore, notice be issued. Learned counsel submits that he has now been instructed to appear in the matter. Therefore, the Secretary of the KIADB, respondent No.2 shall be present before this court on **03-11-2025** at **2.30 p.m.** as there is no explanation coming about pursuant to the orders of the Court dated 18-02-2025 even after lapse of ten months.”

The Secretary of the Board was directed to be present, in the light of no explanation for not revoking the suspension of the petitioner. An affidavit is then preferred by the Board bringing in the entire service of the petitioner, but falling short of any explanation as to why the suspension of the petitioner was not revoked in terms of Rule 10(5) quoted *supra*. What is projected is that the Police have sought sanction under Section 197 of the Cr.P.C., to prosecute the petitioner and other officials’ and investigation is still pending. Therefore, the suspension of the petitioner is not revoked. The affidavit glosses over the mandate of sub-rule (5) of Rule 10 of the Rules.

12. Not for nothing, the Rule stood amended. The amendment of the Rule comes in the light of the judgment of the

Apex Court in the case of **AJAY KUMAR CHOUDHARY v. UNION OF INDIA**¹ wherein the Apex Court had held as follows:

"....

11. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.

12. Protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his department, has to endure this excruciation even before he is formally charged with some misdemeanour, indiscretion or offence. His torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is, to determine his innocence or iniquity. Much too often this has now become an accompaniment to retirement. Indubitably, the sophist will nimbly counter that our Constitution does not explicitly guarantee either the right to a speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal ground norms, are inextricable tenets of Common Law Jurisprudence, antedating even the Magna Carta of 1215, which assures that — "We will sell to no man, we will not deny or defer to any man either justice or right." In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all

¹ (2015) 7 SCC 291

criminal prosecutions the accused shall enjoy the right to a speedy and public trial.

...

...

...

21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.

22. So far as the facts of the present case are concerned, the appellant has now been served with a charge-sheet, and, therefore, these directions may not be relevant to him any longer. However, if the appellant is so advised he may challenge his continued suspension in any manner known to law, and this action of the respondents will be subject to judicial review."

The Apex Court holds that if charge sheet is not issued to the delinquent employee within three months, from the date of placing

the said employee under suspension, the suspension order loses its currency. The Rule stands amended in the light of the said judgment. The Rule now stipulates 6 months' time for issuance of charge sheet against the delinquent employee particularly, when he is placed under suspension in contemplation of departmental enquiry. The mandate of the Rule is, deemed revocation of suspension.

13. A Division Bench of this Court has interpreted Rule 10(5)(b) of the Rules, where the order of suspension is deemed to have been revoked on expiry of six months. A Division Bench of this Court in **SHARANAPPA v. STATE OF KARNATAKA**² has held as follows:

“.....”

7. **The admitted facts being that the order of suspension was passed on 19.01.2024.** The writ petition was filed against the order of the Tribunal calling in question the correctness of the order of suspension on various grounds. Further, **the passage of time has resulted in the requirement of taking note of the consequences of Rule 10 (5) (b) of the CCA Rules, as entering into the validity of order of suspension appears now to be an academic exercise.**

8. Rule 10(5) (b) reads as hereunder:

² **W.P.No.201054 of 2024 decided on 02-08-2024**

"10. (5) (b) If departmental inquiry is not commenced against the delinquent Government Servant or charge-sheet is not filed in the court within a period of six months from suspension, the Competent Authority shall decide whether to revoke or continue suspension of such Government Servant and unless decided and ordered for continuation within this period, the suspension shall be deemed to have been revoked i.e., from the date of completion of a period of six months from the date of suspension. Upon such revocation of the order of his suspension, it shall be the duty of the Government servant to immediately seek order of posting from the Appointing Authority, failing which he shall be deemed to be on unauthorized absence with effect from the date of revocation of the order of his suspension:

Provided that the authority competent to place a Government servant under suspension may extend the period of suspension beyond the period specified in this clause, only after consulting, within the said period, with the authority referred in clause(a) only if such authority recommends extension within the said period. Otherwise, the order placing the Government servant under suspension shall stand revoked automatically under this clause."

9. In light of the plain provision in Rule 10(5) (b) of the CCA Rules, if within the period of six months from the date of order of suspension if no order is passed regarding continuance of such order of suspension, then on the lapse of six months the said order of suspension stands revoked and the petitioner may then seek for posting by making out representation as mandated under Rule 10(5) (b) of CCA Rules.

10. We are conscious of the fact that what was challenged before the Tribunal was only the order of suspension, however, **in light of the subsequent events, the mandate of Rule 10 (5)(b) of the CCA Rules is required to be taken note of and if that were to be so, in light of the discussion above, the order of suspension is deemed to have been revoked as on the expiry of six months.**

11. In light of the discussion made above, the same direction as made in W.P.No.201047/2024 is required to be passed in the present matter also. The petitioner has made out a representation on 24.06.2024 and in light of the period of six months from 19.01.2024 having lapsed on 18.07.2024, there would be deemed revocation of suspension from 18.07.2024. Needless to state that it is in public interest that the employee cannot be allowed to sit at home and accordingly the representation of the petitioner referred to above to be considered and appropriate orders be passed expeditiously, not later than one month from the date of receipt of a certified copy of this order."

14. Another Division Bench of this Court in **K. PRASANTH v. STATE OF KARNATAKA**³ again interprets Rule 10(5)(b) and holds that if departmental enquiry has not commenced within six months from the date of suspension, the Government servant would be entitled to the benefit of Rule 10(5)(b) of the Rules i.e., deemed revocation. The Division Bench holds as follows:

"..... .."

3. It is submitted by the learned Senior Counsel that **the petitioner was placed under suspension by order dated 21st November, 2023** as per Annexure-A10. It is further submitted that in spite of passage of more than six months, no Memo of Charges have been issued to the petitioner and the order of suspension has also not been extended in the manner known to law. **It is therefore contended that since Departmental Enquiry has not commenced within six months from the date of suspension and since no competent order has been passed continuing the suspension beyond six months within a period of six**

³ W.P.No.9134 of 2024 decided on 14-08-2024

months, the petitioner is entitled to the benefit of Rule 10(5)(b) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 (for short hereinafter referred to as the "CCA Rules') and is liable to be reinstated in service.

4. Learned Government Advocate, submits that on the deemed revocation of suspension order also, the petitioner has to report for duty and seek for posting, failing which, he will be deemed to be on unauthorised absence.

5. The learned Senior Counsel submits that the petitioner has made a representation dated 17th April, 2024 to the respondent seeking posting orders, but no order has been passed.

6. Having considered the contentions advanced by the learned Counsel for the parties, we are of the opinion that, **if, as a matter of fact, the Departmental Enquiry has not been commenced within six months from 21st November, 2023, the petitioner would be entitled to the benefit of Rule 10(5)(b) of Rules. In the above circumstances, there will a direction that in case the petitioner reports before the respondent and seeks posting orders, the request shall be considered and appropriate orders shall be passed thereon in accordance with law.** Needful shall be done within a period of one week from the date on which the petitioner reports and make a request, as observed above."

15. Another Division Bench of this Court in **JAGADEESHA**

K.G. v. STATE OF KARNATAKA⁴ holds as follows:

"....."

2. Learned counsel for the petitioner submits that regardless of legality of the order of the Tribunal, **by virtue of operation of Rule 10(5)(b) of KCS (CCA) Rules, 1957, the suspension is deemed to have been revoked inasmuch as,**

⁴ 2025 SCC OnLine Kar 4131

neither there is an order extending the period of suspension nor the Charge Memo has been registered to his client.

3. Sri Vikas Rojipura, learned AGA appearing for the official respondents vehemently opposes the petition making submission in justification of the impugned order of the Tribunal and the reasons on which it has been constructed. He submits that putting an employee under suspension is prerogative of the employer and that ordinarily writ Courts should not interfere in such matters. So contending, he seeks dismissal of the Writ Petition.

4. Having heard the learned counsel for the parties and having perused the petition papers, we are inclined to grant indulgence in the matter broadly agreeing with submission made on behalf of the petitioner that **in terms of the extant rule, the subject suspension is deemed to have been revoked and in terms of petitioner's representation dated 15.04.2025, he needs to be put back in the post/office for functional purpose as before, there being neither extension of suspension nor issuance of Charge Memo.** However, deemed revocation of suspension shall not interdict the contemplated disciplinary enquiry, if any."

16. A Coordinate Bench, again interpreting Rule 10(5)(b) of the Rules, in **K.R. SHIVAKUMAR v. MANAGING DIRECTOR AND DISCIPLINARY AUTHORITY**⁵ has held as follows:

"....."

3. **Petitioner was kept under suspension vide order dated 21.06.2023 as per Annexure-A. It is borne out from the records that respondent having placed petitioner under suspension have not initiated any departmental enquiry. The suspension order therefore is not sustainable in terms of sub-rule (5)(b) of Rule 10 of**

⁵ 2024 SCC OnLine Kar 9938

KCS (CCA) Rules, 1957. It would be useful for this Court to reproduce the said Rule.

The same reads as under:

"10(5)(b): It departmental inquiry is not commenced against the delinquent Government Servant or Charge-sheet is not filed in the Court within a period of six months from suspension, the Competent Authority shall decide whether to revoke or continue suspension of such Government Servant and unless decided and ordered for continuation within this period, the suspension shall be deemed to have been revoked i.e., from the date of completion of a period of six months from the date of suspension. It shall be the duty of the Government servant to immediately seek order of posting from the Appointing Authority, failing which he shall be deemed to be unauthorized absence with effect from the date of revocation of the order of his suspension:

Provided that the authority competent to place a Government servant under suspension may extend the period of suspension beyond the period specified in this clause, only after consulting, within the said period, with the authority referred in clause (a) only if such authority recommends extension within the said period. Otherwise, the order placing the Government servant under suspension shall stand revoked automatically under this clause."

4. Admittedly, the respondent having placed petitioner under suspension has not contemplated to initiate any departmental enquiry. The above culled out Rule clearly indicates that if departmental enquiry is not commenced against the delinquent Government servant or charge sheet is not filed in the Court within a period of six months, the suspension will be deemed to have been revoked from the date of completion of period of six months from the date of suspension.

5. In terms of Rule 10(5)(b), the impugned suspension shall be deemed to have been revoked and therefore, the impugned order does not survive for consideration."

17. It becomes apposite to refer to the interpretation made by the Apex Court with regard to, what would amount to a deemed revocation in any legal parlance, particularly of suspension.

17.1. The Apex Court in **UNION OF INDIA v. DIPAK MALI**⁶ has held as follows:

" "

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 petitioners' case came up for review on 20-10-2004, 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**

⁶ (2010) 2 SCC 222

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."

The Apex Court holds that once the period gets over and the order of suspension results in its revocation pursuant to efflux of time, a subsequent extension cannot revive the order of suspension which had become invalid or deemed to have lapsed in terms of the Rules. The Apex Court was considering Central Civil Services (Classification Control and Appeal) Rules, which is identical to Rule 10 (5)(b).

17.2. Long before the aforesaid judgment, the Apex Court in **STATE OF MADHYA PRADESH v. L.P. TIWARI**⁷ considers the object behind providing a time limit in the service Rules for issuance of articles of charge against the suspended Government servant, and observes as follows:

"....

4. Rule 9 thus contemplates that the disciplinary authority or any authority empowered by the Governor by a general or special order is authorised to place the government

⁷ (1994) 4 SCC 468

servant under suspension where disciplinary proceedings against him are contemplated or are pending or where a case against him in respect of any criminal offence is under investigation inquiry or trial. The order of suspension shall contain the reasons for making such order and where it proposes to hold an enquiry against him under Rule 14, a copy of articles of the charges, statement of imputation of misconduct or misbehaviour and a list of documents and witnesses by which charges are proposed to be sustained shall be issued or caused to be issued by the disciplinary authority to such government servant within a period of 45 days from the date of order of suspension. By operation of the proviso to sub-rule (2-a) 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. **The object appears to be that the competent authority having placed a delinquent officer under suspension, cannot sit over the case without prompt follow-up action of conducting an inquiry into the alleged misconduct. The dereliction thereof entails the authority with denuding the power to continue the officer under suspension, though the power of enquiry subsists.** It would be clear from proviso to Rule 9(2-b) which says that "the period of suspension shall in no case be continued beyond the period of 90 days from the date of the order of suspension". **It would thus be clear that where disciplinary proceedings are pending or contemplated, it is open to the appointing authority, disciplinary authority or authorised officer to keep government servant under suspension and have the articles of charges together with the particulars mentioned hereinbefore "shall be issued or caused to be issued" by the authority to such government servant within the period mentioned hereinbefore. On its so issuing the order of suspension remains in force until revoked on reconsideration in terms of the rules based on facts scenario or proceedings terminated by an order on merits. It is thereby clear that service of the article of charge is not a condition precedent. Putting it in transmission within the period is sufficient compliance.** No doubt every endeavour has to be made to have the charge-sheet served on the delinquent, but the delinquent who evades

receipt of it, cannot be allowed to take advantage of such evasion.”

The Apex Court holds that the object of providing a time limit is that the Competent Authority, having placed a delinquent officer under suspension, cannot sit over the said order of suspension without prompt follow up action of conducting an inquiry into any alleged misconduct. The Apex Court in the aforesaid judgment was considering Rule 9(2-b) of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 which also provides a time limit for issuing the articles of charge from the date of issuance of the order of suspension.

18. On a harmonious synthesis of the pronouncements of the Apex Court, the Division Benches of this Court and the coordinate Bench, an inescapable conclusion emerges that the petitioner’s suspension cannot be permitted to subsist any longer, and must necessarily be revoked. The chronology of events only reinforces the said conclusion. The petitioner was placed under suspension on 19-12-2022, well after the amendment dated 29-10-2020 had come into force. **By virtue of the**

substituted Rule 10(5)(b), the statutory clock began to run. Upon the expiry of the period of 6 months and in the absence of any departmental enquiry initiated by issuance of a charge sheet, the suspension stood automatically revoked by operation of law. Yet, in the stark disregard to the statutory mandate, no enquiry was commenced against the petitioner, for nearly 3 years. It was only pursuant to the order passed by this Court quoted *supra*, charge sheet comes to be issued in April 2025, thereafter an order is passed seeking to continue the suspension until 28-10-2025 ostensibly to justify the prolonged inaction in initiating a departmental enquiry or reinstating the petitioner into service upon deemed revocation.

19. Such conduct, on the part of the Board, displays a troubling disregard to the rule of law. The Board appears to have treated the statutory safeguards as mere formalities, over looking the binding nature of Rule 10(5)(b), which unequivocally declares that suspension stands revoked upon lapse of 6 months, in the absence of timely action. The Competent Authority, cannot wield its powers arbitrarily, as

though employees were chattels or the institution, a personal fiefdom. The Board is bound by the discipline of law. The interpretation accorded to Rule 10(5)(b) by the Division Benches, must, therefore, operate to the benefit of the petitioner.

20. The justification sought to be advanced in the affidavit, that the pendency of criminal case warrants continuance of suspension, cannot be sustained. The order of suspension was passed in contemplation of a departmental enquiry. Mere pendency of a criminal proceeding cannot be invoked to indefinitely prolong suspension in the absence of any departmental enquiry. In this regard, the reasoning of Division Bench of the High Court of Madras in **DGP, TAMIL NADU v. D. JAYAKUMAR**⁸ is apposite. The Division Bench holds as follows:

"..... .."

2.The respondent herein was the writ petitioner who was working in the Police Department and he was allegedly caught red-handed for the alleged receipt of bribe by the Vigilance and Anti Corruption Department and pursuant to which, criminal case is pending. Therefore, it become necessitated for the appellant employer to suspend him. Therefore, on 07.02.2011 the

⁸ **W.A.No.1657 of 2019 decided on 31-07-2023**

respondent was suspended. As against the suspension order, he preferred an appeal to the Appellate Authority and who rejected the said appeal on 27.03.2014. Against which, the respondent also filed further appeal to the office of the Joint Commissioner of Police, who by endorsement order dated 22.06.2016, has rejected the request of the first respondent i.e., Special Sub-Inspector of Police to revoke the suspension.

3.The reason stated by the appellants in all these orders for not revoking the suspension is because of the criminal case that was pending before the concerned Court for trial and once the case is completed, accordingly a decision will be taken. Till such time, it may not be conducive for the employer to revoke the suspension and to reinstate the respondent.

.....

8.If these kind of cases where without initiating any disciplinary proceedings merely on the basis of the pendency of the criminal cases if the Government employee is suspended, such a suspension cannot be extended endlessly without any reason.

9.In this context, every quarter of the year i.e., at the end of third month, the employer has to review the necessity for extending the suspension.

10.Here in the case on hand, the consistent stand taken by the appellant Department is that since the criminal case was pending, at this moment it may not be conducive for the employer to revoke the suspension.

11.The said reason cannot be stated endlessly for several years as the criminal case was pending trial before the concerned Court."

(Emphasis supplied at each instance)

The reasoning of the Division Bench of the Madras High Court is that the continuance of suspension solely on account of a pending

criminal case, without initiation of disciplinary proceedings, is manifestly arbitrary and unsustainable. I am in respectful agreement with the aforesaid observations of the Division Bench of the Madras High Court.

21. **Thus, upon a harmonious construction of the statutory framework, the binding precedents and the undisputed factual matrix, it becomes abundantly clear that the suspension of the petitioner cannot be permitted to subsist.** A direction must ensue, to revoke the order of suspension and grant appropriate posting to the petitioner, in accordance with law. As a consequence thereof, the petitioner becomes entitled to the benefits that would flow from the aforesaid direction. The benefits would be, all consequential benefits – service benefits, from the date of expiry of 6 months of the order of suspension.

22. For the aforesaid reasons, the following:

ORDER

(i) Writ Petition is **allowed**.

- (ii) *Mandamus issues* to the respondents/Karnataka Industrial Areas Development Board to give posting to the petitioner as his suspension is deemed to have been revoked from the date of expiry of six months' of placing him under suspension.
- (iii) The petitioner shall be entitled to all consequential benefit that would flow from the aforesaid direction from the date of completion of six months' of placing him under suspension.

**SD/-
(M.NAGAPRASANNA)
JUDGE**

bkp
CT:SS