

SMT. JUSTICE T.RAJANI

WRIT PETITION No.4699 OF 2020

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to set aside the proceedings of the 3rd respondent in Rc.No.A1/5586/2019, dated 25.11.2019, placing the petitioner under suspension until the conclusion of the disciplinary proceedings.

2. Heard the counsel for the petitioner and the Government Pleader for Revenue appearing for the respondents.

3. The counsel for the petitioner submits that no charge memo was issued to the petitioner but he was kept under suspension with effect from the date of receipt of the impugned proceedings dated 25.11.2019. The grievance of the petitioner now is that the suspension order does not specify the schedule for completion of the disciplinary proceedings. The counsel for the petitioner relies on the order of this Court dated 04.9.2019 in W.P.No.12862 of 2019, wherein this Court considered the judgment of the Apex Court in **Ajay Kumar Choudhary v. Union of India**¹, wherein the Apex Court held that 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. It also observed that if the memorandum of charges/charge sheet is served, a reasoned order must be passed for extension of the suspension.

¹ (2015) 7 SCC 291

4. The Government Pleader relies on the judgment of a Division Bench of High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in **Buddana Venkata Murali Krishna v. State of A.P.**², wherein the Court found fault with the order of the Tribunal which quashed the suspension order. In that case also, the delinquent faced C.B.I., investigation, which resulted in filing of charge sheet. The Court held that it would be indeed inconceivable that a bank should allow an employee to continue to remain on duty when he is facing serious charges of corruption and misappropriation of money and allowing such an employee to remain in the seat would result in giving him further opportunity to indulge in the acts for which he was being prosecuted. It also held that under the circumstances, it was the bounden duty of the appellant to have taken recourse to the provisions of clause 19.3 of the First Bipartite Settlement, 1966. It further held that the mere fact that nearly 10 years have elapsed since the charge-sheet was filed can also be no ground for allowing the respondent to come back to duty on a sensitive post in the bank, unless he is exonerated of the charge. It observed that the attention of the Supreme Court in **Ajay Kumar Choudhary** (1st *supra*) was not drawn to its earlier judgments in **Union of India v. Ashok Kumar Aggarwal**³; **U.P. Rajya Krishi Utpadan Mandi Parishad v. Sanjiv Rajan**⁴; **Secretary to Government, Prohibition and Excise Department v. L.Srinivasan**⁵; and **Allahabad Bank v. Deepak**

² W.P. No.7618 of 2015

³ (2013) 16 SCC 147

⁴ 1993 Supp (3) SCC 483

⁵ (1996) 3 SCC 157

Kumar Bholu⁶, wherein it was held that mere delay in conclusion of disciplinary proceedings or criminal cases or long period of suspension would not render the order of suspension invalid.

5. In this case, it can be seen that not only charge memo but charge sheet is also not filed for the offences which are alleged to have been taken place in the year 2017. But, however, the police department is not made a party to the proceedings. Hence, no order can be made to file charge sheet. But in the light of the above judgments, this Court deems it fit to direct the 3rd respondent to review the suspension order and pass a fresh order with reasons within a period of four weeks from the date of receipt of a copy of this order.

6. The writ petition is disposed of accordingly. Pending miscellaneous applications, if any, shall stand closed in consequence.

SMT. T. RAJANI

February 29, 2020.
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⁶ (1997) 4 SCC 1