

**IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE SHEEL NAGU**

**&**

**HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL**

**WP. No16799 of 2022**

**Between:-**

- 1. STATE OF MADHYA PRADESH  
THROUGH ADDITIONAL CHIEF  
SECRETARY, DEPARTMENT OF HOME,  
MANTRALAYA, VALLABH BHAWAN  
BHOPAL (MADHYA PRADESH)**
- 2. DIRECTOR GENERAL OF POLICE,  
POLICE HEADQUARTERS  
JAHANGIRABAD, BHOPAL 462001  
(MADHYA PRADESH)**

**.....PETITIONERS**

***(BY SHRI AMIT SETH, DEPUTY ADVOCATE GENERAL)***

**AND**

- 1. PURUSHOTTAM SHARMA S/O SHRI  
PARMANAND SHARMA, AGED ABOUT 56  
YEARS, OCCUPATION: SPECIAL  
DIRECTOR, DIRECTOR GENERAL OF  
POLICE, POLICE HEAD QUARTER  
JAHANGIRABAD, BHOPAL, R/O A-98,  
ALKAPURI, BHOPAL (MADHYA PRADESH)**
- 2. UNION OF INDIA, THROUGH ITS  
SECRETARY, DEPARTMENT OF HOME,  
NORTH BLOCK, NEW DELHI (DELHI)**

**.....RESPONDENTS**

**(RESPONDENT NO.1 BY SHRI MANOJ SHARMA, SENIOR  
ADVOCATE WITH SHRI ABHIRAJ SINGH, ADVOCATE)**

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Reserved on : 26.07.2022  
Passed on : 21.11.2022

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**Per: Sheel Nagu, J.**

**ORDER**

This petition invoking writ as well as supervisory jurisdiction of this Court under Article 226 r/w Article 227 of the Constitution, assails the legality and validity of final order dated 05.05.2022 passed in OA. No.200/514/2020 by Jabalpur Bench of Central Administrative Tribunal whereby the Tribunal allowing said OA of respondent No.1 quashed the order of suspension and also the subsequently passed orders of extension of period of suspension.

2. Learned counsel for the rival parties were heard on the question of admission so also final disposal.
3. Facts in nutshell are reproduced below in a tabular form chronologically:-

<b><i>S. No.</i></b>	<b><i>Date</i></b>	<b><i>Events</i></b>
1	28.09.2020	Show cause notice issued to the respondent No.1 as to why his services be not placed under suspension.
2	29.09.2020	Respondent No.1 refuting allegations made in the show cause notice filed reply.

3	29.09.2020	Govt. of M.P. place the respondent No.1 under suspension by invoking Rule 3(1) of All India Services (Discipline & Appeal) Rules, 1969 (for brevity "Rules of 1969") on the ground of contemplated disciplinary proceedings.
4	28.10.2020	Charge sheet is issued against the respondent No.1.
5	28.10.2020	Government of India confirms aforesaid order of suspension.
6	25.11.2020	Period of suspension is extended by the State Government for a period of 60 days w.e.f. 27.11.2020.
7	11.12.2020	Review Committee constituted in terms of Rule 3(8)(c) of Rules of 1969 recommend extension of suspension period for 60 days beyond 27.01.2021.
8	29.12.2020	Government of India rejected the appeal preferred by the respondent No.1 against his suspension.

4, The Tribunal while allowing the said OA found that before expiry of initial period of suspension of 60 days, no Review Committee as per Rule 3(8)(c) was held, and therefore, extension of suspension period beyond 60 days made by State Government by order dated 25.11.2020 was without recommendation of Review Committee, and thus, non est in the eyes of law. Resultantly, Tribunal quashed the order of suspension and all the subsequent orders extending period of suspension.

5. The principal contention of learned counsel for the petitioners/State in this petition is that the Review Committee is not required to be

consulted at the stage of first extension beyond initial period of suspension of 60 days. It is further urged by State that Review Committee's jurisdiction commences at the stage of all subsequent extensions and not at the stage of first extension. By referring to the terminology used in Rule 3(8)(a) of Rules of 1969, it is contended that since the order of suspension dated 29.09.2020 was extended by the Competent Authority before expiry of initial period of 60 days and later by the Review Committee on 11.12.2020 for the period beyond 27.01.2021, the order of suspension dated 29.09.2020 did not lapse automatically after expiry of 60 days. It is also submitted that Rule 3(8) (a) while prescribing the initial period of suspension as 60 days excludes from its operation and sweep, cases where suspension order is extended once by the State Government.

**6.** Pertinently, the pleadings submitted by the State before the Tribunal by way of two replies reveal that Review Committee was not consulted by the Competent Authority when first order dated 25.11.2020 was passed for extending period of suspension beyond initial period of 60 days which was expiring on 27.11.2020. State, thus, admits that recommendations of Review Committee were obtained by the Competent Authority for the purpose of second extension w.e.f. 27.01.2021, but not for the first extension beyond the initial period of 60 days.

**6.1** Thus, questions which beg for an answer herein are:-

(a) Whether initial period of suspension of 60 days can be extended by Competent Authority without recommendation of Review Committee or not ?

(b) Can this initial default of absence of recommendation of Review Committee be validated by subsequent reviews based on recommendation of Review Committee ?

**6.2** The Tribunal has answered aforesaid question in favour of respondent by holding that even for the sake of extension of initial period of 60 days, the recommendation of Review Committee has to be mandatorily sought in the absence of which the order of suspension loses its legal validity on expiry of 60 days and becomes non-existent.

7. For proper adjudication of the dispute herein, it would be apt to reproduce relevant Rule 3(8) and Schedule 1 appended to Rules of 1969, which reads as under:-

*“Rule 3(8)(a) An order of suspension made under this rule which has not been extended shall be valid for a period not exceeding sixty days and an order of suspension which has been extended shall remain valid for a further period not exceeding one hundred twenty days, at a time, unless revoked earlier.*

*(b) An order of suspension made or deemed to have been made or continued shall be reviewed by the competent authority on the recommendations of the concerned Review Committee.*

*(c) The composition and functions of the Review Committees and the procedure to be followed by them shall be as specified in the Schedule 1 annexed to these rules.*

*(d) The period of suspension [under this rule] may, on the recommendations of the concerned Review Committee be*

*extended for a further period not exceeding one hundred and eighty days at a time.*

*Provided that where no order has been passed under this clause, the order of suspension shall stand revoked with effect from the date of expiry of the order being reviewed.*

### ***Schedule 1***

#### ***1. Composition of Review Committees:-***

*(a) The Review Committee constituted by the Central Government shall consist of*

*(i) Secretary to the Government of India in the concerned Ministry/Department-Chairman.*

*(ii) Additional Secretary/Joint Secretary in charge of Administration in the concerned Ministry/Department-Member.*

*(iii) Any other Additional Secretary/Joint Secretary in the concerned Ministry/Department-Member.*

*Note: The Committee may, if considered necessary co-opt an officer of the Department of Personnel and Training with the approval of Secretary (Personnel), Ministry of Personnel, Public Grievances and Pensions.*

*(b) The Review Committee constituted by the State Government shall consist-*

*(i) Chief Secretary-Chairman*

*(ii) Senior most Additional Chief Secretary/Chairman, Board of Revenue/financial Commissioner or an officer of equivalent rank and status-Member.*

*(iii) Secretary, Department of Personnel in the State Government-Member Secretary.*

*Note: (i) The Home Secretary/Director General (Police) of the concerned States may be co-opted wherever a case concerning a member of the Indian Police Service is considered.*

*(ii) The Secretary Forest/Principal Chief Conservator of Forest of the concerned State may be co-opted wherever a case concerning a member of the Indian Forest Service is considered by the Committee.*

*(iii) In States where Civil Services Board have been constituted, the State Government may entrust the work of the Review Committee to the board.*

**2. Functions:-**

*(a) The Review Committee/Civil Services Board shall review the cases of officers under suspension in order to determine whether they are of sufficient grounds for continuation of suspensions.*

*(b) In every case the review shall be done within 90 days from the date of order of the suspension. In a case where the period of suspension has been extended, the next review shall be done within a period of 180 days from the date of last extension.”*

**8.** Rule 3 of Rules of 1969 deals with suspension of members of All India Service. Since the time said rules were framed in 1969 till 13.07.1998 when several amendments were made in Rule 3 of Rules of 1969, Rule 3 empowered the Competent Authority (under the State Government or Central Government) alone to decide on the question of suspension of All India Service officers and also continuance of such suspension. There was no further provision in Rule 3 to exercise any check over this power of Competent Authority.

**8.1** As a result of above said sweeping powers in the hand of Competent Authority, there were occasions where officers were kept under suspension for long period of time.

**8.2** The concept of periodical review of suspension and justification for its extension was introduced by way of Executive Instructions, which did not have statutory force.

**8.3** Realizing the grievance of suspended officers of All India Service, All India Services (Discipline & Appeal) Amendment Rules, 1998 were introduced, which inserted Sub Rule 8(a), 8(b), 8(c) and 8(d) in Rule 3 which is reproduced above.

**8.4** The insertion of Sub Rule 8(a), 8(b), 8(c) and 8(d) in Rule 3 created a statutory Review Committee to prevent the Competent Authority from acting in an arbitrary, whimsical and unreasonable manner while extending/reviewing the period of suspension. Sub Rule (8) of Rule 3, which was introduced w.e.f. 25.07.1998 made it mandatory for the Competent Authority to decide on the question of continuance/review of suspension orders on the recommendation of said statutory Review Committee.

**8.5** To make the power of suspension more circumscribed and bereft of element of arbitrariness, Rule 3 underwent another spell of amendment by notification dated 21.12.2015, which introduced the following changes:-

(i) In the third Proviso to Rule 3 (1), the expression “45 days” was replaced by “30 days”. Meaning thereby that if the suspension was based on contemplated disciplinary proceedings and the charge sheet was not issued within 45 days (now reduced to 30 days), which was extendable by



another 30 days and if the order of suspension is not confirmed by the Central Government within said period, then suspension order would lapse on expiry of 60 days.

(ii) An IAS Officer working under the Central Government shall be suspended only on recommendation of Central Review Committee with approval of Minister Incharge, Department of Personnel and Training.

(iii) The expression “90 days” and “180 days” found in Sub Rule 8(a) of Rule 3 were substituted by 60 days and 120 days respectively. Meaning thereby that order of suspension passed under Rule 3, which has not been extended, shall be valid for a period not exceeding 60 days and the order of suspension which has been extended shall remain valid for a period not exceeding 120 days unless revoked earlier.

(iv) The composition of Review Committee constituted by the Central Government and also by the State Government were statutorily provided in Schedule 1 of Rules of 1969 w.e.f. 30.09.2009. The Review Committee comprised of High Ranking Bureaucrats to keep a check on the arbitrary, whimsical and unreasonable exercise of power of suspension and its extension by the Competent Authority.

**9.** Bare perusal of aforesaid Rule 3(8), reveals that Review Committee is constituted for the purpose of assessing sufficiency of grounds for continuation of suspension order. There are two such Review Committees contemplated by Schedule 1 appended to said Rules. One under the Central Government and the other under the State Government.

Schedule 1 also delineates the function to be performed by these Committees, which is to examine the existence/non existence and sufficiency of grounds justifying continuance of suspension beyond initial period of suspension as per Rule 3(8) of Rules of 1969.

**9.1** No doubt, Rule 3(8)(a) of Rules of 1969 while prescribing the initial period of suspension of 60 days excludes from its sweep those orders of suspension, which have been extended by the State Government. Meaning thereby that if order of suspension is passed and is not extended before expiry of 60 days, then the same would lapse.

**9.2** Pertinently, the first review by Review Committee is stipulated to be undertaken within 90 days of the order of suspension which is not extended. While for suspension orders which are extended the review by Review Committee is mandated to be undertaken within 180 days (vide Clause 2 of Schedule I). More so, Rule 3(8)(d) circumscribes the power of extension of suspension backed by recommendations of Review Committee to a maximum of 180 days at a time. Meaning thereby, if any order of suspension is extended beyond initial period of 60 days, then such orders can remain valid for another 120 days (for a total of  $60+120=180$  days) without obtaining recommendations of Review Committee thereby compelling the officer to remain suspended for six months without any review.

**9.3** Thus, before expiry of initial period of suspension of 60 days, Competent Authority is empowered to extend the same beyond period of 60 days. Pertinently, after amendment in Rule 3, the power to assess

legality, validity and sufficiency of grounds for extension beyond 60 days or beyond any further period is vested exclusively with Review Committee. Competent Authority thus to preserve and further the object behind the amendment cannot continue or extend, whether it is first extension beyond initial period of suspension of 60 days or any subsequent extension/continuance except on the recommendations of Review Committee. Thus, convening of Review Committee prior to expiry of initial period of suspension of 60 days inferentially subserves the object of the amended Rules.

**10.** Rule 3(8)(a) of Rules of 1969 creates two class of suspension orders. First being the order of suspension which has been extended beyond the period of 60 days by the State/Competent Authority without recommendation of Review Committee and thus can remain valid for a further period not exceeding 120 days. Whereas for the second category of suspension orders, which have not been extended by the State/Competent Authority, the order of suspension lapses on expiry of 60 days, if neither charge sheet is filed nor Central Government confirms the suspension order. Respondents are unable to disclose the reason behind such a classification, which thus appears to have no rationale.

**10.1** If Rule 3 of Rules of 1969 is read textually as well as contextually, then no such reason is palpable to justify such a classification.

**10.2** The concept of review of an order of suspension is founded upon the rationale that extensions/continuance of order of suspension take place for reasons justified in law without any discrimination, arbitrariness

or capriciousness coming into play. With this rationale behind every act of extension/continuance of suspension order beyond initial period of 60 days, it does not appeal to reason that the safety measure of review should not be applied while extending the period of suspension beyond 60 days.

**10.3** As explained above, an officer shall remain under suspension for six months without his case being considered by the Review Committee. It is only when the extension is proposed beyond the period of six months, then the Review Committee would be consulted and not otherwise. This situation would allow the State/Competent Authority to use the power of suspension as a weapon for victimizing employees by keeping them under prolonged suspension for six months without having to justify the decision of extension to the Review Committee.

**11.** In view of aforesaid series of amendments, which Rule 3 underwent, it is obvious that beyond initial period of 60 days, which is provided under the third Proviso to Rule 3 (1) as the maximum period for issuance of charge sheet qua suspension relating to contemplated disciplinary proceedings, every extension whether made by the Competent Authority or by the Central Government or by the State Government beyond period of 60 days ought to be subjected to scrutiny of Review Committees as a sine qua non so as to prevent every extension from falling foul of arbitrariness, capriciousness and unreasonableness.

**11.1** Thus, the intention behind amended Rule 3 is to render every decision making process of extension/continuance of suspension orders, to be immune from arbitrariness.

**12.** If the contention of State is accepted that for extension of period of suspension beyond the period of 60 days, the Competent Authority is alone empowered without the recommendations of Review Committee, then the entire object of amended Rules and the purpose of constitution of Review Committees would stand frustrated.

**12.1** It is not uncommon that officers placed under suspension for different reasons are made to suffer prolonged suspension without periodical reviews as regards justification and sufficiency of grounds for extension. The Rules of 1969 stipulate constitution and functions of Review Committees as a safeguard against unjustified prolonged period of suspension.

**13.** From the aforesaid discussion, what comes out loud and clear is that Review Committee constituted by the Rules of 1969 especially Rule 3(8)(c) is required to be mandatorily consulted by the Competent Authority not only for the purposes of second, third or subsequent extensions of period of suspension, but also in regard to extension/continuance beyond the initial period of 60 days.

**14.** In view of above, this Court concurs with the findings and order of Tribunal impugned herein but for a few additional reasons as mentioned supra.

**15.** Resultantly, both the questions in Para 6.1 (supra) are answered in the negative.

**16.** Consequently, this Court does not find any reason to interfere in the order of Tribunal passed on 05.05.2020 in OA. No.200/514/2020. Accordingly, this petition stands **dismissed**.

**17.** No cost.

**(SHEEL NAGU)**  
**JUDGE**

**(DWARKA DHISH BANSAL)**  
**JUDGE**

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