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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 05th July, 2021

+ W.P.(C) 6079/2021 & CM APPLs.19252-19253/2021

UNION OF INDIA AND ORS.

THROUGH SECRETARY MINISTRY OF FINANCE

Petitioner

Through: Mr. Y.P. Singh, Advocate.

versus

VIKRAM BHASIN

..... Respondent

Through: Mr. Ajesh Luthra, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

MANMOHAN, J. (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the Order dated 11th May 2021 passed by the Central Administrative Tribunal (hereinafter referred to as 'Tribunal') in OA No.871/2021.
3. Learned Counsel for the petitioner states that the respondent was posted as Superintendent (Jewellery Appraiser) in the office of Commissioner of Customs at IGI Airport and was serving on the same post till his suspension. He states that on 03rd June, 2019, the respondent was placed under suspension in contemplation of the disciplinary proceedings. He states that his suspension was initially for

a period of ninety days and thereafter, it was extended from time to time in the spells of one hundred and eighty days.

4. Learned Counsel for the petitioner states that in the impugned order the Tribunal has directed that the suspension of the applicant/respondent shall not be continued, once the present extension of time expires. He states that the Tribunal further directed that the applicant/respondent be reinstated in service soon thereafter.

5. Learned Counsel for the petitioner submits that the Tribunal erred in holding that the suspension was resorted to in contemplation of disciplinary proceedings and that there was no reference to any criminal case, much less, to the factum of arrest. He submits that the Tribunal failed to appreciate that the initial order of suspension was issued on 03rd June 2019, i.e. only after the arrest of the respondent on 31st May, 2019.

6. Learned counsel for the petitioner states that the Directorate of Revenue Intelligence vide letter dated 14th June, 2021 has informed the petitioner that that the final investigation report shall be submitted to the jurisdictional commissionerate for further action within two months.

7. However, this Court finds that despite the lapse of two years, neither any chargesheet has been filed nor any charge memo has been issued to the applicant/respondent. As far as the issue of suspension of the petitioner and extension thereof, this Court is of the view that the Investigating Authorities have had more than sufficient time to conclude the investigation. For any delay in investigation, the applicant/respondent cannot be penalised. This Court is also in

agreement with the reasoning of the Tribunal that since the applicant/applicant has now to be paid subsistence allowance equivalent to his salary, it would serve no purpose not to utilise his services.

8. Accordingly, this Court finds no ground to interfere with the impugned order in writ jurisdiction and the present writ petition along with pending applications is dismissed.

9. At this stage, learned counsel for the petitioner, on instruction of the Commissioner of Customs, states that the impugned order shall be complied with within fifteen days. The statement made by learned counsel for the petitioner is accepted by this Court. It is directed that in the event, the aforesaid statement is complied with, then no contempt proceedings shall be initiated against the petitioner and/or its officers.

10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

JULY 05, 2021
AS/KA