

**IN THE GAUHATI HIGH COURT**

(THE HIGH COURT OF ASSAM: NAGALAND: MIZORAM & ARUNACHAL PRADESH)

**ITANAGAR PERMANENT BENCH (NAHARLAGUN)**

**WP(C)94(AP) of 2019**

Shri Amoy Morang,  
S/O Lt. Ganagaram Morang.  
R/O P-Sector.  
P.O/P.S; Pasighat, East Siang District.  
District: East Siang, Arunachal Pradesh.

..... *Petitioner.*

**– VERSUS –**

1. The State of Arunachal Pradesh represented by the Chief Secretary, Government of Arunachal Pradesh, Itanagar.
2. The Chief Secretary, Govt. of Arunachal Pradesh, Itanagar.
3. The Secretary, Department of Town Planning & Urban Local Bodies, Govt. of Arunachal Pradesh, Itanagar.

..... *Respondents.*

Advocates for the Petitioner: Mr. I. Choudhury  
Mr. A. Dhar  
Mr. N. Ratan  
Mr. K. Loya  
Mr. T. Tagum  
Mr. R. Ngomle  
Mr. O. Sitek  
Mr. B. Tajik  
Mr. B. Murtem  
Mr. M. Nimu

Advocates for the Respondent: Mr. R. H. Nabam, Additional Advocate General  
Ms. P. Pangu

**::: BEFORE :::**

**HON'BLE MR. JUSTICE NANI TAGIA**

**JUDGMENT AND ORDER (Oral)**

**04.06.2019**

Heard Mr. I. Choudhury, learned Senior counsel for the petitioner, assisted by Mr. N. Ratan, learned counsel as well as Mr. R. H. Nabam, learned Additional Advocate General, representing State respondents, assisted by Ms. P. Pangu, learned Junior Govt. Advocate.

**2.** The writ petitioner, who was working as the Chief Executive Officer, Smart City Development Corporation Limited, Pasighat, East Siang District was put under suspension under Sub-Rule (1) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 by an order, dated 10.11.2018, issued by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar on 13.11.2018, vide Memo. No. DTP/SC-02/2017-18, annexed as Annexure-5 to the writ petition, contemplated/pending a disciplinary proceeding.

**3.** The writ petitioner by relying on Sub-Rules 6 & 7 of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 contends that if the respondent authorities wanted the writ petitioner to be under further suspension, it ought to have extended the suspension of the writ petitioner by issuing a fresh order within a period of 90 days from the last date of suspension order. According to the writ petitioner, if the

date of the order of suspension is taken to be the 10.11.2018, the 90 days will expire on 07.02.2019 and if the order of suspension is taken to be issued on 13.11.2018, the period of 90 days expires on 10.02.2019. Accordingly, the petitioner contends that the respondent authorities having not issued further order of suspension of the writ petitioner, either before 07.02.2019 or 10.02.2019, the earlier order of suspension issued would be deemed to have lapsed in view of the Sub-Rule 7 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

**4.** An affidavit-in-opposition have been filed by the State respondents, wherein it has been contended that the decision to put the writ petitioner under further suspension was taken on 04.02.2019 by the Review Committee constituted for the purpose and in pursuance of the decision taken on 04.02.2019, an order dated 12.02.2019 was issued by the Chief Secretary, Govt. of Arunachal Pradesh putting the writ petitioner under further suspension for 180 days.

**5.** Mr. I. Choudhury, learned senior counsel for the petitioner by referring to Sub-Rules 6 & 7 of the Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 submits that the authorities are required to take a fresh decision within the stipulated period of 90 days and pass necessary order(s) in order to put the suspended officials under further suspension.

**6.** In the instant case, Mr. I. Choudhury, learned senior counsel for the petitioner submits that the respondent authorities having failed to comply with the requirement of Sub-Rules 6 & 7 of Rule 10 of the Central

Civil Services (Classification, Control and Appeal) Rules, 1965, the writ petitioner cannot be put under further suspension and, therefore the earlier order of suspension, dated 10.11.2018 would be deemed to have lapsed in view of Sub-Rule 7 of the Rule 10 of the of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and accordingly, the writ petitioner is liable to be reinstated in the service with immediate effect.

**7.** On the other hand, Mr. R. H. Nabam, learned Additional Advocate General representing State respondents submits that an order of suspension was issued on 10.11.2018, and accordingly 90 days would expire on 10.02.2019. Mr. R. H. Nabam, learned Additional Advocate General further submits that the period of 90 days provided under Sub-Rule 6 of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is the date of the decision of the Review Committee constituted for the purpose and not the date of the issue of the order putting the employees under further suspension. He further submits that, as the Review Committee constituted for the purpose took the decision to put the writ petitioner under further suspension on 04.02.2019, the respondent authorities have acted well within the stipulated period as prescribed under Sub-Rule 6 of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, notwithstanding the fact that the formal order was issued on 12.02.2019, therefore Mr. Nabam, learned Additional Advocate General submits that as the Review Committee having decided to put the writ petitioner under further suspension on 04.02.2019, there is no any illegality committed by the

respondent authorities in putting the writ petitioner under further suspension by an order, dated 12.02.2019.

**8.** Rival submissions advanced at the Bar have received due consideration of this Court.

**9.** It has remained un-disputed at the Bar that the writ petitioner was put under suspension by an order, dated 10.11.2018, which was issued on 13.11.2018. As per the submissions made by Mr. I. Choudhury, learned Senior counsel for the petitioner as well as Mr. R. H. Nabam, learned Additional Advocate General for the State respondents, it has also remained un-disputed that the period of 90 days from the last order of suspension of the writ petitioner would expire on 10.02.2019. It has also remained un-disputed that the further order to put the writ petitioner under further suspension was issued on 12.02.2019, the decision of which may have been taken on 04.02.2019. Therefore, the order dated 12.02.2019 putting the writ petitioner under further suspension for a period of 180 days was admittedly issued well beyond the stipulated period of 90 days as provided under Sub-Rules 6 & 7 of the Rule of the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

**10.** Rule-10 Sub-Rules 6 & 7 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, which are relevant for the purpose of determination of the issue raised in the present writ petition is quoted herein below:-

***"(6). An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority which is competent to modify or revoke the suspension [before***

***the expiry of ninety days from the effective date of suspension] on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.***

***(7). An order of suspension made or deemed to have been made under sub rule (1) or (2) of this rule shall not be valid after a period of ninety days unless it is extended after review, for a further period before the expiry of ninety days.***

***Provided that no such review of suspension shall be necessary in the case of deemed suspension under sub-rule (2), if the Government servant continues to be under suspension at the time of completion of ninety days of suspension and the ninety days' period in such case will count from the date the Government servant detained in custody is released from detention or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later."***

**11.** From the reading of Sub-Rule 6 of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, it is noticed that an order of suspension made or deemed to have been made under Sub-Rule (1) or (2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is required to be reviewed by the authorities competent to modify or remove the suspension before the expiry of 90 days from the effective date of suspension on the recommendation of the Review Committee constituted for the purpose and pass an order either extending or revoking the suspension. It is further noticed that the subsequent reviews are also to be made before the expiry of extended period of suspension.

**12.** Sub-Rule 7 of the Central Civil Services (Classification, Control and Appeal) Rules, further provided that the suspension made or deemed to have been made under Sub-Rule (1) or (2) would not be valid after a period of 90 days unless the same has been extended after the review is made before expiry of 90 days.

**13.** The use of the words "*...on the recommendation of the Review Committee constituted for the purpose and pass necessary order either extending or revoking the suspension order...*", used in Sub-Rule 6 of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 can only be understood that the authorities are required to pass an order on receipt of a recommendation by the Review Committee constituted for the purpose before the expiry of 90 days.

**14.** The reading of Sub-Rule 6 of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 as have been noted above, in the view of this Court, cannot be read to mean that the relevant date for the purpose of computation of the expiry of 90 days would be the date the Review Committee constituted for the purpose takes a decision and not the date of the order issued in pursuance thereof, as submitted by Mr. Nabam, learned Additional Advocate General.

**15.** In the considered view of this Court, Sub-Rule 6 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 contemplates that an order is required to be passed by the authority on the recommendation of the Review Committee constituted for the purpose. Therefore, it would be the date of the order passed, which would be relevant and material for

the purpose of deciding whether the decision to extend or revoke the suspension order has been reviewed within the stipulated period of 90 days.

**16.** Admittedly, the order extending the further period of suspension of the writ petitioner having been passed on 12.02.2019, the same cannot be treated to have passed in compliance of Sub-Rule 6 of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules and accordingly, in view of the Sub-Rule 7 of the Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the impugned order of suspension, dated 10.11.2018 issued by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar would be treated to be not valid for having not issued the order extending the further period of suspension before the expiry of 90 days. Accordingly, the writ petitioner is entitled to be reinstated in the service forthwith.

**17.** It is ordered accordingly.

The writ petition is **disposed of** in terms above.

**JUDGE**

Pura