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ALLAHABAD HIGH COURT (LUCKNOW BENCH)

MOHD.ABDUL REHMAN SIDDIQUE — Appellant

Vs.

BOARD OF REVENUE, U.P., LUCKNOW AND OTHERS — Respondent

(Before : Syed Rafat Alam, J and Shri Narayan Shukla, J)

Special Appeal No.781 of 2011

Decided on : 15-12-2011

- Uttar Pradesh Government Servants (Discipline and Appeal) Rules, 1999 - Rule 4(3)(b)

A. Uttar Pradesh Government Servant (Discipline and Appeal) Rules, 1999 — Rule 4(3)(b) — Suspension — Representation for revocation — Employee suspended after release from jail under Rule 4(3)(b) — Representation for revocation of suspension must be considered and disposed of by the competent authority expeditiously and in accordance with law. (Paras 3, 4, 6)

JUDGMENT

Shri Narayan Shukla, J.—This intraCourt appeal has arisen from the order of the learned Single Judge dated 20.5.2011 passed in writ petition No.2837 (SS) of 2011 dismissing the petitioner's writ petition, questioning the validity of the order placing him under suspension.

2. We have heard Mr.Y.S.Lohit, learned counsel for the appellant and Mrs.Sangeeta Chandra, learned counsel for the respondents.

3. It appears that the appellant was roped in criminal case No.290 of 2000, under Sections 420, 467, 468, 471, 120B IPC and 13(1)(d) of the Prevention of Corruption Act and was also placed under suspension vide order dated 12.2.2007. He was arrested in connection with the aforesaid case on 18.1.2007 and remained in custody till 25.1.2007, when he was

released on bail. Thereafter he joined the duties and made an application under the provisions, contained in Section 4((3)(b) of the Uttar Pradesh Government Servant (Discipline and Appeal) Rules, 1999 (hereinafter referred to as 'Rules, 1999)'. Respondent did not pass any order on the representation dated 21.2.2007, which is still pending consideration. However, learned Single Judge did not examine the question as to whether the respondents were required to dispose of the aforesaid representation or not and dismissed the writ petition mainly on the ground that the accused petitioner can be placed under suspension under the Rules.

4. Learned counsel for the appellant vehemently contended that since the order of suspension was under subRule (3)(b) of Rule 4 of the Rules 1999, therefore, under the Rules the delinquent employee can make a representation before the competent authority under Rule 4 (3)(b) of the Rules for its revocation. It is submitted that the appellant immediately after the order of suspension applied for its revocation. However, the authorities did not pass any order on the representation. Learned counsel for the appellant further argued that other employees connected with the alleged offence and similarly situated persons have not been put under suspension, therefore, there was no justification to pick the appellant only and to place him under suspension.

5. On the other hand learned counsel for the respondents vehemently stated that if the aforesaid representation is still pending, it would be considered and decision shall be taken in accordance with law.

6. Having considered the submissions made on behalf of the parties and also having regard to the provisions contained in Rule 4 of the Rules 1999 we are also of the view that since the order of suspension was passed after his release from jail, it could only be passed under Rule 4(3)(b) of the Rules, 1999. Therefore, the representation of the petitionerappellant was required to be considered and disposed of by the authority concerned. We, therefore, dispose of this appeal at this stage with the direction to the respondent No.3, who is the competent authority, to examine the aforesaid representation of the appellant dated 21.2.2007 and pass appropriate order in accordance with law expeditiously, preferably within a period of two weeks from the date of production of a certified copy of this order.

7. With the aforesaid observation this appeal stands disposed of finally.