

IT E M NO.4

COUR T NO.8

S E C T I O N IVA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).6 6 6 1 / 2 0 0 6

(From the judgement and order dated 01 / 0 9 / 2 0 0 5 in W P(S) No. 25 6 9 / 2 0 0 5 of The HIGH COUR T OF M.P. AT JA B A L P U R)

UNION OF INDI A & ORS.

Petitioner(s)

VE R S U S

DI P A K MAL I

Respondent(s)

(With appln(s) for c/delay in filing SL P and bring on record subsequent event and with prayer for interim relief and office report)
(For Final Disposal)

Date: 2 7/ 0 2 / 2 0 0 8 This Petition was called on for hearing today.

CORAM :

HON' B L E MR. JUS T I C E A.K. MATHU R
HON' B L E MR. JUS T I C E ALTAM A S KA B I R

For Petitioner(s) Mr. Vikas Singh, ASG
Ms. Rajni Singh, Adv.
Mr. B. K. Pra s a d, Adv.
Mrs Anil Katiyar, Adv.

For Respondent(s) Mr. Raj Kum a r Gupta, Adv.
Mr. Mukul Dubey, Adv.
Mr. Pradeep K. Singh, Adv.
Mr. P r aveen Chaturvedi, Adv.

UPON hearing counsel the Court made the following
O R D E R

Learned Addl. Solicitor General, appearing for the Union of India submitted that the Notification dated 23. 1 2 . 2 0 0 3 which was published in the Official Gazette on 2/ 3 rd Ja nu a ry, 20 0 4 and this Rule was to come into effect on expiry of 9 0 days from the date of publication in the Official Gazette. Therefore, it has to come into effect from 2.4. 2 0 0 4 and on that date by another notification the said Rule was extended upto 2.6. 2 0 0 4 . Therefore it was contended by him that 90 days period has to be counted from 2.6. 2 0 0 4 then the question of continuation of the incumbent's suspension was reviewed on 2 0 . 1 0 . 2 0 0 4 and it was extended.

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The learned Addl. Solicitor General submitted that before that date, the respondent filed an Original Application on 14. 7. 2 0 0 4 and therefore by virtue of

Section 19(4) of the Administrative Tribunals Act, 1 9 8 5 the proceedings qua the petitioner stayed because of the filing of the Original Application before the Tribunal.

The question therefore boils down to whether Section 19(4) will come into play in this case or not. Learned counsel for the respondent has pointed out that Sub- section (4) says that an application has been admitted by the Tribunal. Learned counsel for the respondent is not a position to show whether the Original Application has been admitted or only notice was issued. In case the petition was admitted then automatically under sub- section (4) the petitioner could not have considered review/continuation of the suspension of the respondent and if it was not admitted then the provision of Section 19(4) may not be applicable.

In this view of the matter this question depends on whether the Original Application filed by the respondent was admitted or not. Let record of O.A. No. 54 0 / 2 0 0 4 from Central Administrative Tribunal, J abalpur Bench be called for. The matter be listed for hearing after the record is received.

We make it clear that this narration of facts is only for the purpose of summoning of the records.

(Ajay Kr. J ain)
Court Master

(P.S. Tyagi)
Court Master