



2026:AHC-LKO:69317

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW
WRIT – A No. - 6327 of 2024**

Dr. Ravindra SinghPetitioners(s)

Versus

State of U.P. Thru. Prin.Respondents(s)
Secy. Medical Health
and Family Welfare
Lko. And 5 Others

Counsel for Petitioners(s)	:	Dharmendra Kumar
Counsel for Respondent(s)	:	C.S.C.

Reserved
A.F.R.

Court No. - 34

HON’BLE INDRAJEET SHUKLA, J.

For the convenience of exposition, this judgment is divided into the following parts:

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1. Heard Sri Dharmendra Kumar, learned counsel for the petitioner, and Sri Vijay Kumar Bajpai, learned Standing Counsel for the State respondents.

2. Jurisdiction of this Court under Article 226 of the Constitution of India has been invoked by the petitioner, assailing the validity and correctness of the order dated 12th July, 2024, passed by the third respondent/Under Secretary, Medical, Health and Family Welfare, U.P., Civil Secretariat, Lucknow, whereby the benefit of continuity of service for the period of suspension, except for the period of detention in jail, as well as salary for the said period, has been denied to the petitioner.

Factual Matrix

3. The facts, as emanating from the pleadings, necessary for adjudication of the controversy are delineated hereunder:

3.1. The petitioner, an Allopathic Doctor, was appointed on 25.10.2007 and joined his duties on the post of Medical Officer on 22.11.2007 at the Primary Health Centre, Mauranipur, District Jhansi.

3.2. Two criminal cases, viz, Case Crime No. 118 of 2021, under Sections 354, 504 and 376 IPC, Police Station Gursarai, District Jhansi, and Case Crime No. 69 of 2022, under Sections 306 and 506 IPC, Police Station Gursarai, District Jhansi, were registered against the petitioner. The petitioner applied for bail in the aforesaid cases and was enlarged on bail vide orders dated 15.09.2022 and 10.10.2022, respectively. Consequently, the petitioner remained in custody from 29.06.2022 to 20.10.2022.

3.3. After admission on bail, the petitioner submitted an application dated 21.10.2022 to the Chief Medical Officer, Jhansi, seeking revocation of the deemed suspension and permission to resume his duties. The filing of the said application dated 21.10.2022 is not in dispute. However, the application was referred to the Director, Medical Health, for guidance. The petitioner had been placed under deemed suspension vide order dated 10.10.2022, with retrospective effect from 29.06.2022, on account of his having remained in custody, in exercise of the power contemplated under Rule 4(3)(a) of the U.P. Government Servant (Discipline and Appeal)

Rules, 1999 (hereinafter referred to as the 'Rules, 1999'). The relevant excerpt of the order of deemed suspension is reproduced below:

“1- मुख्य चिकित्साधिकारी झांसी के पत्र संख्या- सी०एम०ओ० / डा० रविन्द्र सिंह /काग०निरुद्ध/अभि०2022-23/4282 दिनांक 12.07.2022 द्वारा अवगत कराया गया कि डा० रविन्द्र सिंह अधीक्षक सामु० स्वा० केन्द्र चिरगाँव, झांसी दिनांक 20.06.2022 से मु०अ०सं०-118/2021 अन्तर्गत पारा 376/354/504 भा०दं०सं०थाना गुरसराय, जिला झांसी एवं मु०अ०सं०-69/2022 अन्तर्गत धारा-306/506 भा०दं०सं० थाना गुरसराय, जिला झांसी में जिला कारागार झांसी में निरुद्ध है। अतः कारागार में निरुद्ध होने की तिथि दिनांक 29.06.2022 से डॉ० रविन्द्र सिंह को उ०प्र० सरकारी सेवक (अनुशासन एवं अपील) नियमावली 1999 के नियम- 4 (3) (क) के अन्तर्गत निलम्बित किया जाता है।”

3.4. Since the order of suspension was purportedly passed under Rule 4(3)(a) of the Rules, 1999, the same partakes the character of a deemed suspension.

4. The pleaded case of the petitioner is that, since 21.10.2022, his request for resumption of duties had been kept in abeyance and no action was taken thereon. Consequently, the petitioner was constrained to approach this Court by filing Writ-A No. 3840 of 2024, Dr. Ravindra Singh Vs. State of U.P. and others, which was disposed of vide order dated 17th May, 2024, with a direction to the competent authority to consider the petitioner's application dated 21.10.2022 in accordance with law and the Rules, 1999. The operative portion of the order dated 17th May, 2024, passed by this Court is extracted hereunder:

“Accordingly, considering that as the petitioner has been released from jail on 20.10.2022 and thereafter has filed an application for his joining, present petition is disposed of with a direction to the competent authority to consider the application of the petitioner for joining dated 21.10.2022 in accordance with law and the Rules, 1999 within a period of three weeks from the date of receipt of a certified copy of this order.”

5. The request for resumption of duties made by the petitioner vide application dated 21.10.2022 was, in substance, a request for revocation of the deemed suspension. However, for a considerable period of approximately two years, the authorities failed to take any decision thereon and no order as contemplated under Rule 4(3)(b) of the Rules, 1999, was passed. Ultimately, in compliance with the order of this Court, the third respondent considered the petitioner's application dated 21.10.2022 and, vide order dated 12th July, 2024, permitted the petitioner

to resume his duties by revoking the order of deemed suspension. At the same time, it was stipulated that the question of treating the period of suspension as period spent in service and payment of salary for the said period would be considered after the outcome of the criminal cases. The deferment of a decision regarding the treatment of the period of suspension until conclusion of the criminal trial, in effect, postpones consideration of the petitioner's claim for an indefinite period, without any apparent statutory sanction. The relevant excerpt of the order dated 12.07.2024, whereby the deemed suspension of the petitioner was revoked, is extracted hereunder:

“....दिनांक 10.10.2022 द्वारा किये गये निलम्बन को एतद्वारा समाप्त करते हुए, सेवा में बहाल कर डा० रविन्द्र सिंह को अधीन मुख्य चिकित्साधिकारी, चित्रकूट तैनात किये जाने की श्री राज्यपाल सहर्ष स्वीकृति प्रदान करता है।”

Submissions Advanced on Behalf of the Petitioner

6. Learned counsel for the petitioner submitted that postponement of the petitioner's legitimate dues and salary, even after revocation of the order of deemed suspension, is without jurisdiction and authority of law. It was contended that the concept of deemed suspension operates only for the period during which the Government servant remains in detention. Once the petitioner, immediately upon his release from custody, expressed his willingness to resume duties by submitting the representation dated 21.10.2022, which is a mandate of rules, i.e. the next day of his release, there was no occasion to prolong the deemed suspension of the petitioner, if ultimately it ended in shape of revocation.

7. Further submission of learned counsel for the petitioner is that deferment of the arrears of salary until conclusion of the criminal trial is not supported by any statutory provision or sanction of law. It is further submitted that, in paragraph No. 17 of the writ petition, the petitioner has specifically pleaded that deferment of payment of arrears of salary is not supported by any provision of law. The said assertion has not been specifically denied in the counter affidavit filed by the State authorities; rather, an evasive reply has been furnished by stating that the charges against the petitioner are serious in nature and carry punishment extending up to life imprisonment.

8. The presumption of innocence continues to operate in favour of a person unless he is tried and held guilty by a competent court of law. The entire counter affidavit is conspicuously silent as to how continuation of the deemed suspension for a prolonged period, even after the petitioner had been released from custody, can be justified, particularly when no departmental proceedings have been initiated against the petitioner.

9. Learned counsel for the petitioner has taken the Court to the judgment rendered by the learned trial court in Case Crime No. 118 of 2021, under Sections 376, 354 and 504 IPC, which was brought on record by way of rejoinder affidavit dated 21.05.2025. The learned trial court, vide judgment and order dated 10.10.2024 passed in Sessions Trial No. 226 of 2023, State of U.P. Vs. Dr. Ravindra Kumar, acquitted the petitioner of the charges levelled against him. The trial court further directed that the prosecutrix be proceeded against for giving false evidence and for falsely implicating the petitioner.

10. The further contention of learned counsel for the petitioner is that the proceedings of Sessions Trial No. 61 of 2023, arising out of Case Crime No. 69 of 2022, under Sections 306 and 506 IPC, Police Station Gursarai, District Jhansi, have been stayed by this Court at Allahabad in Criminal Revision No. 155 of 2025. It is, therefore, submitted that no effective criminal proceedings can presently be said to be pending against the petitioner. In the first case, the petitioner has already been acquitted by the learned trial court, whereas, in the second case, the criminal proceedings themselves have been stayed by this Court.

Submissions Advanced on behalf of State-respondents

11. Learned Standing Counsel for the State respondents vehemently opposed the prayer for treating the period of deemed suspension, as well as the period thereafter up to the date on which the decision revoking the suspension was taken, as period spent in service. Supporting the impugned order dated 12th July, 2024, it was submitted that, at least in one of the criminal cases, namely, Case Crime No. 69 of 2022, no final adjudication has taken place and, therefore, for all practical purposes, the criminal proceedings against the petitioner continue to remain pending. It was

further submitted that the charges against the petitioner are serious in nature and, if established, may entail a sentence of imprisonment extending up to ten years and would render the petitioner unbecoming of a Government servant.

Analysis/Reasoning

12. Suspension is forbidding an employee from working, which is a creature of rules. Service jurisprudence does not contemplate indefinite suspension of a Government servant, even where the Rules, 1999 prescribe no specific outer limit for its continuance. Rule 4(3)(a) of the Rules, 1999 incorporates the concept of deemed suspension where a Government servant is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours.

13. Independent of the outcome of the criminal trial, in the case in hand, no disciplinary proceedings have been initiated against the petitioner. The deemed suspension resorted to against the petitioner could not come to an end till its revocation for almost two years, which was due to the indifferent attitude of the State authorities. The initial inaction, with the flux of time, transforms into illegal action which can hardly be countenanced in law.

14. No doubt, if the charge of abatement of suicide arising out of Case Crime No. 69 of 2022, if established, would make the petitioner unbecoming of a Government servant, having some essence of moral turpitude, but there can be no presumption of guilt in service jurisprudence; rather, it is the presumption of innocence continues to operate in all spheres of law unless held guilty.

15. Rule 3 of the U.P. Government Servant Conduct Rules, 1956 mandates every Government servant to maintain, at all times, absolute integrity and devotion to duty and to conduct himself in accordance with the specific or implied orders of the Government regulating his behaviour and conduct, as may be in force. If the charges of abatement of suicide are found true after conclusion of the trial, then of course it can be inferred and concluded that the petitioner had not maintained integrity and his such behaviour would not be in accordance with rules and laws. The charges in

Case Crime No. 69 of 2022 are with respect to sexual harassment at the workplace and thereafter consequential allegation of abetment of suicide, which is an offence even in terms of Rule 3-A of the U.P. Government Servant Conduct Rules, 1956, but it is too early to conclude anything in that light, particularly when the proceedings arising out of Case Crime No. 69 of 2022 have been stayed by this Court vide order dated 16.01.2025 in Criminal Revision No. 155 of 2025 passed by this Court. The said criminal revision is pending. The relevant portion of the order staying criminal proceedings passed by this Court reads as:

“10. Till the next date of listing, the proceedings of Sessions Trial No. 61 of 2023 (old number 1056 of 2022) (State Vs. Dr. Ravindra Kumar) pending in the court of learned Additional Sessions Judge, Garautha, District Jhansi, shall remain stayed.”

16. It would be apposite to take note of Rule 4, more particularly **Rule 4(3),(8) of the Rules, 1999**, which reads as under:

“4. Suspension. -

(1) A Government servant against whose conduct an inquiry is contemplated, or is proceeding may be placed under suspension pending the conclusion of the inquiry in the discretion of the appointing authority :Provided that suspension should not be resorted to unless the allegations against the Government servant are so serious that in the event of their being established may ordinarily warrant major penalty :Provided further that concerned Head of the Department empowered by the Governor by an order in this behalf may place a Government servant or class of Government servants belonging to Group 'A' and 'B' posts under suspension under this rule :Provided also that in the case of any Government servant or class of Government servants belonging to Group 'C' and 'D' posts, the appointing authority may delegate its power under this rule to the next lower authority.

(2) A Government servant in respect of, or against whom an investigation, inquiry or trial relating to a criminal charge, which is connected with his position as a Government servant or which is likely to embarrass him in the discharge of his duties or which involves moral turpitude, is pending, may at the discretion of the appointing authority or the authority to whom the power of suspension has been delegated under these rules, be placed under suspension until the termination of all proceedings relating to that charge.

(3)(a) A Government servant shall be deemed to have been placed or, as the case may be, continued to be placed under suspension by an order of the authority competent to suspend, with effect from the date of his detention, if he is detained in custody, whether the detention is on criminal charge or otherwise, for a period exceeding forty-eight hours.

(b) The aforesaid Government servant shall, after the release from the custody, inform in writing to the competent authority about his detention and may also make representation against the deemed suspension. The competent authority shall after considering the representation in the light of the facts and circumstances of the case as well as the provision contained in this rule, pass

appropriate order continuing the deemed suspension from, the date of release from custody or revoking or modifying it.

(4) Government servant shall be deemed to have been placed, or as the case may be, continued to be placed under suspension by an order of the authority competent to suspend under these rules, with effect from the date of his conviction if in the event of a conviction for an offence he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed consequent to such conviction. Explanation. - The period of forty-eight hours referred to in sub-rule will be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken to account.

(5) Where a penalty of dismissal or removal from service imposed upon a Government servant is set aside in appeal or on review under these rules or under rules rescinded by these rules and the case is remitted for further inquiry or action or with any other directions :

(a) if he was under suspension immediately before the penalty was awarded to him, the order of his suspension shall, subject to any such directions as aforesaid, be deemed to have continued in force on and from the date of the original order of dismissal or removal;

(b) if he was not under suspension, he shall, if so directed by the appellate or reviewing authority, be deemed to have been placed under suspension by an order of the appointing authority on and from the date of the original order of dismissal or removal:

Provided that nothing in this sub-rule shall be construed as affecting the power of the disciplinary authority in a case where a penalty of dismissal or removal in service imposed upon a Government servant is set aside in appeal or on review under these rules on grounds other than the merits of the allegations which, the said penalty was imposed but the case is remitted for further inquiry or action or with any other directions to pass an order of suspension pending further inquiry against him on those allegations so, however, that any such suspension shall not have retrospective effect.

(6) Where penalty of dismissal or removal from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of law and the appointing authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal or removal was originally imposed, whether the allegations remain in their original form or are clarified or their particulars better specified or any part thereof a minor nature omitted :

(a) if he was under suspension immediately before the penalty was awarded to him, the order of his suspension shall, subject to any direction of the appointing authority, be deemed to have continued in force on and from the date of the original order of dismissal or removal;

(b) if he was not under such suspension, he shall, if so directed by the appointing authority, be deemed to have been placed under suspension by an order of the competent authority on and from the date of the original order of dismissal or removal.

(7) Where a Government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise) and any other disciplinary proceeding is commenced against him

during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government servant shall continue to be under suspension till the termination of all or any of such proceedings.

(8) Any suspension ordered or deemed to have been ordered or to have continued in force under this rule shall continue to remain in force until it is modified or revoked by the competent authority.

(9) A Government servant placed under suspension or deemed to have been placed under suspension under this rule shall be entitled to subsistence allowance in accordance with the provisions of Fundamental Rule 53 of the Financial Hand Book, Volume 11, Parts II to IV.”

17. The provision relating to deemed suspension, as contemplated under Rule 4(3)(a) of the Rules, 1999, operates from the date of detention where a Government servant is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours.

18. The Rules, 1999 confer power upon the competent authority to place a Government servant under deemed suspension in the circumstances contemplated under Rule 4(3)(a). The said provision operates where:

- (i) the Government servant is under detention; and
- (ii) such detention or custody, whether in connection with a criminal charge or otherwise, continues for a period exceeding forty-eight hours.

19. Rule 4(3)(b) of the Rules, 1999 provides a statutory mechanism for reconsideration of deemed suspension and obligates the competent authority, upon receipt of the Government servant's representation, to take an appropriate decision. The provision contemplates three courses: either to continue the deemed suspension from the date of release from custody or to revoke or modify the same.

- (i) Upon release from custody, the Government servant is required to inform the competent authority in writing of his detention and is entitled to make a representation against the deemed suspension.
- (ii) Upon receipt of such representation, the competent authority is required to consider the same in the light of the facts and circumstances of the case and the provisions contained in the Rules, and thereafter pass an

appropriate order either continuing the deemed suspension with effect from the date of release from custody or revoke or modifying the same.

20. This Court is cautious of the fact that the Rules do not expressly prescribe the consequence of failure to pass an order regarding the continuance of deemed suspension. However, the absence of an express consequence cannot, by itself, be treated as determinative of the nature or character of the provision, putting it in the class of 'directory' or 'mandatory'.

21. The State respondents could not take any conscious decision to continue with the order of deemed suspension of the petitioner till a decision in the criminal trials, rather adopted the second option, i.e. revocation of the deemed suspension, which resulted in an unexplained reason for first continuing the deemed suspension without any order/expression on the petitioner's representation for almost two years and thereafter its revocation. Silence of two years on the representation is not supported and sheltered by the rules.

22. In **Amrit Lal Verma Vs. Chairman-Cum-Managing Director, Allahabad Bank and another (Neutral Citation No.2015:AHC:73799:DB)**, the Division Bench of this Court was called upon to examine the validity of a conscious decision of the competent authority to continue the employee under suspension during the pendency of the criminal proceedings. The Division Bench dismissed the writ petition, making the following observations:

"It appears that, thereafter, petitioner has been let off on bail and he requested that the said suspension order be revoked. Thereafter, the authority concerned considered the request of petitioner and has proceeded to take a conscious decision for continuance of suspension of petitioner till a decision in the criminal proceedings. Once such is the factual situation that initial order of suspension was based on the fact that petitioner has been under detention exceeding 48 hours and as the criminal proceedings are still ongoing and the Competent Authority has chosen in his wisdom not to revoke the same till a decision is there in the said proceedings, then averments made by petitioner that the suspension order is for indefinite period and as it has been based on account of being under detention exceeding 48 hours is liable to be recalled, cannot be accepted by this Court, in the facts of case. The incumbent, working in the banks, has to have the highest integrity and once the conduct of petitioner is under cloud and criminal proceedings, as initiated against him, are still ongoing and matter has been investigated by

the CBI, then there is no reason for us to entertain the request, that has been so made on behalf of petitioner.”

23. The Division Bench affirmed the conscious decision for keeping the employee under suspension till conclusion of the criminal trial, as same is well within the realm of the disciplinary authority as per the Rules, 1999, but in the case in hand aforesaid course was not opted; rather there is revocation of suspension at belated stage i.e opting for second choice and not its continuance till the conclusion of criminal trial. Thus, no justification has come forth on the part of State respondents for not taking a decision on the petitioner's representation for revocation of suspension for almost two years.

24. Admittedly, as borne out from the record, the petitioner submitted his representation under Rule 4(3)(b) of the Rules, 1999, on 21.10.2022. However, no decision was taken by the competent authority either to continue, revoke or modify the deemed suspension. It was only pursuant to the direction issued by this Court in Writ-A No. 3840 of 2024 that the authorities took up the matter and ultimately revoked the deemed suspension vide order dated 12th July, 2024.

25. The authorities could wake up from slumber only when the order by this Court was passed. Thus, the authority competent, in terms of Rule 4(3)(b) of the Rules, 1999, defied his duties in not considering the representation so submitted on 21.10.2022 by either continuing the deemed suspension or revoking/modifying it till 12th July, 2024. Such an apathetic attitude and inaction of authorities and failure to adhere to the statutory mandate contained under Rule 4(3) (b) of the Rules, 1999 indicates/speaks malice in law, since the entire counter affidavit is silent, what led the competent authority to not take a prompt decision on the representation of the petitioner dated 21.10.2022.

26. The State respondents failed to take any decision on the representation of the petitioner from 21.10.2022 till 12.07.2024, i.e. an inordinate delay of approx 2 years. Further, neither in the order impugned nor in the counter affidavit is it mentioned as to what is the justification for such inaction; thus, the inaction of the state respondents attracts the

doctrine of malice in law and, by itself, indicates mala fide and arbitrariness. Mala fide and arbitrariness are distinct manifestations arising from the same vice, with the later being broader in scope and encompassing the former.

27. Malice in fact requires proof of personal ill-will, or an improper motive, whereas malice in law may be inferred where a public authority or an individual acts in deliberate defiance of the law or on extraneous/misconceived grounds. Malice in law in the instant case is writ large as the state official concerned had absolutely no concern with delay qua continuance of deemed suspension which ultimately resulted in its revocation.

28. It is well settled that malice in law does not necessarily connote personal ill-will, spite or animosity on the part of the authority concerned. Rather, it refers to an exercise of power without lawful justification, for an unauthorised purpose, or in disregard of the statutory scheme governing such exercise.

29. The following decision of the Supreme Court authoritatively expounds the aforesaid principle. In **Ratnagiri Gas and Power Private Limited v. RDS Projects and Others, (2013) 12 SCC 786**, the Supreme Court has held as follows:

“30. Coming then to the question whether the action taken by the appellant RGPPL was vitiated by malice in law, we need hardly mention that in cases involving malice in law the administrative action is unsupportable on the touchstone of an acknowledged or acceptable principle and can be avoided even when the decision maker may have had no real or actual malice at work in his mind. The conceptual difference between the two has been succinctly stated in the following paragraph by Lord Haldane in Shearer v. Shields (1914) A.C. 808 quoted with approval by this Court Additional District Magistrate, Jabalpur v. Shivkant Shukla (1976) 2 SCC 521: “410. Between 'malice in fact' and 'malice in law' there is a broad distinction which is not peculiar to any system of jurisprudence. The person who inflicts a wrong or an injury upon any person in contravention of the law is not allowed to say that he did so with an innocent mind. He is taken to know the flaw and can only act within the law. He may, therefore, be guilty of 'malice in law', although, so far as the state of his mind was concerned he acted ignorantly, and in that sense innocently. 'Malice in fact' is a different thing. It means an actual malicious intention on the part of the person who has done the wrongful act.”

31. Reference may also be made to the decision of this Court in State of AP & Ors. v. Goverdhanlal Pitti (2003) 4 SCC 739 where the difference between

malice in fact and malice in law was summed up in the following words: “11. The legal meaning of malice is “ill-will or spite towards a party and any indirect or improper motive in taking an action”. This is sometimes described as “malice in fact”. “Legal malice” or “malice in law” means ‘something done without lawful excuse’. In other words, ‘it is an act done wrongfully and wilfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite’. It is a deliberate act in disregard of the rights of others’. [See Words and Phrases legally defined in Third Edition, London Butterworths 1989]. Where malice is attributed to the State, it can never be a case of personal ill-will or spite on the part of the State. If at all, it is malice in legal sense, it can be described as an act which is taken with a oblique or indirect object...” (emphasis supplied)

32. To the same effect is the recent decision of this Court in Ravi Yashwant Bhoir v. District Collector, Raigad and Ors (2012) 2 SCC 407 where this Court observed:

“MALICE IN LAW:

37. This Court has consistently held that the State is under an obligation to act fairly without ill will or malice- in fact or in law. Where malice is attributed to the State, it can never be a case of personal ill-will or spite on the part of the State. “Legal malice” or “malice in law” means something done without lawful excuse. It is a deliberate act in disregard to the rights of others. It is an act which is taken with an oblique or indirect object. It is an act done wrongfully and willfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite. Mala fide exercise of power does not imply any moral turpitude. It means exercise of statutory power for “purposes foreign to those for which it is in law intended.” It means conscious violation of the law to the prejudice of another, a depraved inclination on the part of the authority to disregard the rights of others, where intent is manifested by its injurious acts. Passing an order for unauthorized purpose constitutes malice in law.

30. A bare perusal of the pleadings in the counter affidavit does not indicate that any conscious decision was taken to place the petitioner under suspension in exercise of power under Rule 4(2) of the Rules, 1999, so as to continue the suspension until termination of the criminal proceedings. The present case, therefore, is one where the deemed suspension continued for a prolonged period without any justification, and the competent authority failed to exercise due diligence in considering the petitioner's representation in terms of Rule 4(3)(b) of the Rules, 1999.

31. If the doctrine of malice in law is pressed into service, it is difficult to appreciate that, if the deemed suspension could ultimately be revoked on 12.07.2024, what prevented the competent authority from taking the same decision upon receipt of the petitioner's representation dated 21.10.2022. No change in circumstances during the intervening

period has been pointed out by the State respondents. The matter assumes greater significance when such inaction is in disregard of the mandate contained in Rule 4(3)(b), resulting not only in the petitioner being deprived of the opportunity to discharge his duties as a doctor but also putting the public fund at stake. Had there been a conscious decision, supported by reasons, to continue the deemed suspension until conclusion of the criminal proceedings, the position may have been different, as the Rules, 1999, read in entirety, confer such power upon the competent authority. However, in the present case, no such conscious decision or reasoned order for continuance of suspension has been brought on record.

32. In this connection, it would be apposite to mention that, prior to the commencement of the Rules, 1999, disciplinary action, including suspension of Government servants, was governed by the Civil Services (Classification, Control and Appeal) Rules, 1930 (hereinafter referred to as the “CCA Rules, 1930”) and the Punishment and Appeal Rules for Subordinate Services, Uttar Pradesh, 1932 (hereinafter referred to as the “Punishment and Appeal Rules”). For ready reference, Rule 49-A of the erstwhile CCA Rules, 1930, as amended by Notification dated 30.10.1976 and remained in force immediately prior to the commencement of the Rules, 1999, is reproduced hereunder:

“Rule 49A-

[3] (1) The appointing authority or any authority to which it is subordinate or the Governor by general or special order, may place a Government servant under suspension--

- (a) where disciplinary proceeding against him is contemplated or is pending, or,*
- (b) where a case against him in respect of any criminal offence is under investigation, or trial.*

(2) A Government servant shall be deemed to have been placed under suspension by an order of appointing authority-

- (a) with effect from the date of his detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;*
- (b) with effect from the date of his conviction, if in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.*

Explanation.--

The period of forty-eight hours referred to in clause (b) of this sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

- (4) *Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.*
- (5) *Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and the disciplinary authority on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.*
- (6) (a) *An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.*
 (b) *Where a Government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government servant shall continue to be under suspension until the termination of all or any of such proceedings.*
 (c) *An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.”*

33. This Court notices the Full Bench decision of this Court in **Chandra Shekhar Saxena v. Director of Education (Basic) and Another, 1996 SCC OnLine All 635**, wherein various facets of deemed suspension under the CCA Rules, 1930, which governed the field prior to the promulgation of the Rules, 1999, were considered. The Full Bench was called upon to answer two questions under reference, which have been noticed in paragraph 2 and answered in paragraph 26 thereof. In arriving at

its determinative conclusions, the Full Bench undertook an elaborate examination of the provisions relating to deemed suspension. For ready reference, relevant excerpts are reproduced hereinbelow:

“2. During the course of hearing Shri Rakesh Dwivedi, learned Additional Advocate General mentioned that the judgment of the learned Single Judge in case of Jagjit Singh v. State of U.P. has been challenged in Special Appeal No. 436 of 1995 which is pending and the appeal may also be heard along with Writ Petition No. 39588 of 1994 as in both the cases, the judgment declaring Rule 49-A(2)(a) of the Rules as null and void being violative of Articles 14 and 21 of the Constitution of India is subject matter of consideration. On this request the record of the aforesaid appeal was also summoned by us. The questions referred to this bench are as under:—

“1. Whether sub-clause, (a) of sub-rule (2) of Rule 49-A of the Civil Services (Classification, Control and Appeal) Rules, 1930 as applicable in Uttar Pradesh is violative of Articles 14 and 21 of the Constitution of India and null and void?”

“2. Whether the legal fiction envisaged under Rule 49-A(2)(a) or (b) can come into play even in the absence of an order of suspension passed in writing?”

10. In the written arguments submitted by Shri P.P. Srivastava for respondents in the writ petition, it has been submitted that Art. 14 forbids the class legislation. It does not forbid classification or differentia which rests upon the reasonable grounds of distinction. The principle of equality as envisaged in Art. 14 does not mean that every law must have universal application for all persons who are not by nature, attainment or circumstances in the same position. Varying need of different class of persons require different treatment. Classification should be reasonable. It must be founded on intelligible differentia which discloses persons or things that are grouped together from other left out of the group. The differentia must have a rational relation to the object sought to be achieved by the statute in question. Reliance has been placed in Prabodh Verma v. State of U.P.¹ and Motor General Traders v. State of U.P. It has been further submitted that there is always a presumption of constitutionality of a statute and the burden is upon who attacks it and he has to show that there has been any transgression of the constitutional principles. In the present case there is a total lack of such pleading and proof.

17. The deemed suspension by an order of the appointing authority thus is applicable to the detentions both under clauses (a) and (b) which are nothing but one alternative under two different contingencies. Under sub-rule (2), the phrase “as the case may be” continued to be placed under suspension by an order of appointing authority deals with a different alternative after the release of the Government Servant from the custody or detention where the deemed suspension under the first part of sub-rule (2) may be continued by an express order of the appointing authority. In sub-rule (2) the phrase “as the case may be” contemplates two alternatives; one deemed suspension by an order of the appointing authority and another alternative of continued suspension on release of the Government Servant from detention. There appears no ambiguity or confusion. What we have said above is corroborated from sub-rule (2) of Rule 10 of Central Civil Services (Classification) Control and Appeal Rules, 1965, which reads as under—

“(2) A Government Servant shall be deemed to have been placed under suspension by an order of appointing authority—

(a) With effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;

(b) With effect from the date of his conviction, if, in the event of conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.”

19. In our opinion, different Division Benches gave different interpretation of sub-rule (2) only for the reason that the expression “as the case may be” and the alternative contemplated thereafter was not correctly appreciated. The logical conclusion is that whenever the Government Servant is detained in custody, for that period, he should be deemed to be under suspension irrespective of the reason of detention whether it is on a criminal charge or otherwise or on being sentenced to a term of imprisonment on being convicted. However, this deemed suspension should be confined to the period of detention in custody only and it cannot be carried further after release from detention. If the appointing authority wants to continue this deemed suspension further, a specific order is required to be passed and for passing such an order, all the requirements provided in sub-rules (1) and (1-A) of Rule 49-A, as the case may be should be taken into account. In our considered opinion, the deemed suspension under sub-rule (2) cannot be carried beyond the period of detention in custody as the basic purpose behind enacting sub-rule (2) is to render the Government servant non-functional during the period he is deprived of the liberty and he shall be deemed to be under suspension for this period even in absence of any order passed by the appointing authority. One can well imagine the serious consequences if a Government Servant is allowed to discharge his duties and functions from the place of his custody. Much has been argued on the basis of the fact that a Government servant may conceal the fact of his detention from the appointing authority and in such circumstances the deemed suspension contemplated under sub-rule (2) cannot serve any purpose. However, in our opinion, the argument though appears to be attractive, is not acceptable. The deemed suspension will serve the purpose even though detention in custody of Government Servant may not be in the knowledge of the appointing authority for some time as it shall save the interest of the Government, whenever any order, action or omission of such Government Servant done during the period of detention comes in question for consideration. All his actions during the period of detention shall be without authority and cannot bind the Government. Considering the aforesaid purpose, immediate knowledge is not very material. Further, a Government Servant under the Conduct Rules is under obligation to inform his appointing authority or the employer about his detention and even if he has not informed, the law will assume all the consequences which flow from the deemed suspension on his detention in custody and one should not have any doubt about such consequences on an assumption of ignorance of appointing authority of such fact. There is yet a very strong reason for which it appears necessary that deemed suspension envisaged under sub-rule (2) of Rule 49-A of the Rules should be limited to the period of detention only. The provision is very stringent and leaves no exception or discretion with the appointing authority.

The deemed suspension of government employee is bound to follow if he is detained in custody for more than forty eight hours, irrespective of the fact whether the detention is connected with his employment or not. The detention may be for any reason but the consequence of deemed suspension shall follow during the period of detention when the employee is not in a position to render any service. Thus, in our opinion, in order to save the Government employee from unnecessary harassment, it is necessary to limit this deemed suspension only for the period of detention.

22. The provisions contained in sub-rule (2) have also been assailed as unconstitutional on the ground that the same suffer from vice of arbitrariness. In our opinion, this criticism has also no substance. The deemed suspension of a Government servant by a legal fiction is a necessity as discussed above but it

is not correct to say that the Government servant has been left remediless once a deemed suspension has come into existence. Sub-rule (5)(a) of Rule 49-A clearly provides that any suspension ordered or deemed to have been ordered gr to have continued in force under this Rule shall continue to remain in force until it is modified or revoked by the authority specified in sub-rule (1). Thus a Government servant who has been deemed to be under suspension by an order of the appointing authority for the period he was under detention in custody, can approach the appointing authority and convince him for modifying or revoking the order and on such approach being made, the appointing authority may take into account all the facts and circumstances which led to his detention in custody and gave rise to the deemed suspension and then the appointing authority may pass appropriate order modifying or revoking the order of suspension. Thus, the Government servant is not remediless. On the basis of the language used in sub-rule (5)(a), it has been argued that a deemed suspension once comes into existence, shall continue to remain in force until it is modified or revoked by the appointing authority and the Government Servant shall continue under suspension even after his release from the custody. In our opinion, under sub-rule (5)(a) suspension deemed to have been ordered shall continue to remain in force does not mean that the actual suspension shall also continue after release from custody. However, the deemed suspension shall remain in force for other purposes which may include all the consequences which flow from an order of suspension of a Government servant. From the combined reading of sub-rule (2) and clauses (a) and (b) and sub-rule (5)(a) of Rule 49-A, the possible and reasonable conclusion is that deemed suspension shall be operative only for the period of custody and not beyond that. However, it shall remain in force for other purposes which flow from the order of suspension. In our opinion, such a harmonious interpretation can be safely given to the provisions contained in sub-rule (5)(a) without doing any violence to the purpose and object and the legislative intent behind the aforesaid provisions.

26. If the aforesaid principles laid down by Hon'ble supreme Court are kept in mind, the provisions contained in sub-rule (2)(a) cannot be held to be null and void. Rule 49-A has been framed in exercise of the powers under Article 309 of the Constitution of India and the Rule has a definite purpose to serve. We have considered all the cases cited by the learned counsel for parties. However, we do not find anything on which basis the view we have expressed above may be doubted or shaken. Our conclusions and answer to the questions referred to us are as under:—

(A) sub-clause (a) of sub-rule (2) of Rule 49-A of the Civil Services (Classification, Control and Appeal) Rules, 1930, as applicable in Uttar Pradesh, is not violative of Article 14 and 21 of the Constitution of India as held in case of Jagjit Singh v. State of U.P.¹, and the judgment is hereby over-ruled.

(B) The legal fiction envisaged under sub-rule (2)(a) and (b) of Rule 49-A shall come into play and a deemed suspension by an order of the appointing authority shall come into existence if the Government Servant is detained in custody for more than forty-eight hours even in absence of any order in writing passed by the appointing authority.

(C) The deemed suspension provided under sub-rule (2) of Rule 49-A shall be confined to the period of detention in custody and not beyond that.

(D) The deemed suspension by an order of the appointing authority under the legal fiction provided in sub-rule (2) may be continued after release by the appointing authority by passing an express order taking into account the guidelines provided in other sub-rule of Rule 49-A according to the facts and circumstances of the case.

(E) The deemed suspension under sub-rule (2) of Rule 49-A may be modified or revoked by the appointing authority on a representation made by the Government Servant which shall be considered and decided taking into consideration the guidelines provided in sub-rules (1) and (1-A) of Rule 49-A.

34. The Supreme Court, in **Union of India v. Rajiv Kumar, (2003) 6 SCC 516**, had occasion to consider the interpretation and scope of deemed suspension envisaged under the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter referred to as the “CCA Rules, 1965”). The provisions contained therein are broadly similar to those under the CCA Rules, 1930, which were subsequently replaced by the Rules, 1999; however, they are not identically worded or strictly *pari materia*. The crucial distinction is that the CCA Rules, 1965 do not contain any provision analogous to Rule 4(3)(b) of the Rules, 1999, which specifically contemplates and confers right of representation against the deemed suspension and casts obligation upon competent authority to take an express decision thereon. A similar provision was also absent under the CCA Rules, 1930, which fell for consideration before the Full Bench in **Chandra Shekhar Saxena (supra)**. Thus, neither the Rules of 1930 nor the CCA Rules, 1965 contained a provision analogous to Rule 4(3)(b) of the Rules, 1999. Nevertheless, while examining the continuance and duration of deemed suspension, the Supreme Court in **Rajiv Kumar (supra)** held that deemed suspension may continue even after the Government servant is released on bail and that no separate or express order is necessary for its continuance. The Supreme Court, accordingly, did not approve the view taken by the Full Bench in **Chandra Shekhar Saxena (supra)**. The relevant observations are reproduced hereunder:

“13. Rule 10 is the pivotal provision around which the controversy revolves, and it reads as follows:

“10. Suspension.—(1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the President, by general or special order, may place a government servant under suspension—

(a) where a disciplinary proceeding against him is contemplated or is pending; or

(aa) where, in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or

(b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial:

Provided that, except in case of an order of suspension made by the Comptroller and Auditor-General in regard to a member of the Indian Audit and Accounts Service and in regard to an Assistant Accountant-General or equivalent (other than a regular member of the Indian Audit and Accounts Service), where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

(2) A government servant shall be deemed to have been placed under suspension by an order of appointing authority—

(a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;

(b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Explanation.—The period of forty-eight hours referred to in clause (b) of this sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a government servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a government servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the court has passed an order purely on technical grounds without going into the merits of the case.

(5)(a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the government servant shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.”

14. Rule 10(2) is a deemed provision and creates a legal fiction. A bare reading of the provision shows that an actual order is not required to be passed. That is deemed to have been passed by operation of the legal fiction. It has as much efficacy, force and operation as an order otherwise specifically passed under other provisions. It does not speak of any period of its effectiveness. Rules 10(3) and 10(4) operate conceptually in different situations and need specific provisions separately on account of interposition of an order of a court of law or an order passed by the appellate or reviewing authority and the natural consequences inevitably flowing from such orders. Great emphasis is laid on the expression “until further orders” in the said sub-rules to emphasise that such a prescription is missing in sub-rule (2). Therefore, it is urged that the order is effective for the period of detention alone. The plea is clearly without any substance because of sub-rules (5)(a) and (5)(c) of Rule 10. The said provisions refer to an order of suspension made or deemed to have been made. Obviously, the only order which is even initially deemed to have been made under Rule 10 is one contemplated under sub-rule (2). The said provision under Rule 10(5)(a) makes it crystal clear that the order continues to remain in force until it is modified or revoked by an authority competent to do so while Rule 10(5)(c) empowers the competent authority to modify or revoke also. No exception is made relating to an order under Rules 10(2) and 10(5)(a). On the contrary, it specifically encompasses an order under Rule 10(2). If the order deemed to have been made under Rule 10(2) is to lose effectiveness automatically after the period of detention envisaged comes to an end, there would be no scope for the same being modified as contended by the respondents and there was no need to make such provisions as are engrafted in Rules 10(5)(a) and (c) and instead an equally deeming provision to bring an end to the duration of the deemed order would by itself suffice for the purpose.

16. Reference has been made to sub-rule (5)(b) of Rule 10. According to the High Court the same appears to have been made “ex majore cautela”. Conceptually, sub-rules (5)(a) and (5)(b) operate in different fields and for different purposes i.e. when more than one disciplinary proceedings come to be initiated to cover all such situations. Both the provisions have to be read harmoniously. Otherwise, sub-rule (5)(a) would become meaningless and sub-rule (5)(c) purposeless and both provisions would be rendered otiose and superfluous.

17. View of the Full Bench of the Allahabad High Court [1997 All LJ 963 : 1997 Lab IC 2592 (FB)] that the legal fiction created ceases to be effective for the purpose of suspension while operative for other purposes is clearly unsustainable and we do not approve of the same.

28. Strong reliance was placed on Nelson Motis v. Union of India [(1992) 4 SCC 711 : 1993 SCC (L&S) 13 : (1993) 23 ATC 382] to contend that omission of the expression “until further orders” in Rule 10(2) was conscious and, therefore, the period covered for “deemed suspension” was restricted to the period of detention. Such plea is without substance. In Nelson case [(1992) 4 SCC 711 : 1993 SCC (L&S) 13 : (1993) 23 ATC 382] the respective scope and ambit of Rule 10(2) and Rule 10(3) fell for consideration. As indicated above, the said provisions apply in conceptually and contextually different situations and have even no remote link with the situation envisaged under Rule 10(2). In fact, this Court in the said case categorically observed as under : (SCC p. 716, para 8)

“The comparison of the language with that of sub-rule (3) reinforces the conclusion that sub-rule (4) has to be understood in the natural sense.”

35. The Full Bench judgment in **Chandra Shekhar Saxena** (*supra*) was rendered in 1996, at a time when Rule 4(3)(b) of the Rules, 1999 was not in existence. The provisions contained in Rule 49-A(2)(a) and (6) (a), (c) of the CCA Rules, 1930 were compared with the corresponding provisions of Rules 10(2)(a) and (b) and 5(a) and (c) of the CCA Rules, 1965. In **Rajiv Kumar** (*supra*), the Hon'ble Supreme Court disapproved the view taken by the Full Bench in **Chandra Shekhar Saxena** (*supra*) that the legal fiction created by the rule ceases to operate for the purpose of suspension, while continuing to operate for other purposes.

36. A little difference in the facts or additional facts changes the precedential value of an authority. Thus, the ratio of any decision has to be understood in the background of the facts of the case. The Court should not place reliance upon a decision without discussing as to how the factual edifice fits in with the fact situation of the decision on which reliance is placed. The judgment of a Court is not to be read mechanically as the *Euclid's theorem* nor as if it were a statute. Decisions of cases by blindly relying upon a precedent may lead to a improper decision. (See: **Deepak Bajaj vs State of Maharashtra**, AIR 2009 SC 628). In **Deepak Bajaj** (*supra*) wherein it was remarked:

"7. It is well settled that a judgment of a Court is not to be read mechanically as a Euclid's theorem nor as if it was a statute.

8. On the subject of precedents Lord Halsbury, L.C., said in Quinn vs. Leatham, 1901 AC 495 :

"Now before discussing the case of Allen Vs. Flood (1898) AC and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but are governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all." We entirely agree with the above observations.

9. In Ambica Quarry Works vs. State of Gujarat & others (1987) 1 SCC 213 (vide paragraph 18) this Court observed : "The ratio of any decision must be understood in the background of the facts of that case. It has been said a long time ago that a case is only an authority for what it ac-

tually decides and not what logically follows from it". 10. In Bhavnagar University vs. Palittana Sugar Mills Pvt. Ltd. (2003) 2 SCC 111 (vide paragraph 59), this Court observed : "It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision". 11. As held in Bharat Petroleum Corporation Ltd. & another vs. N.R. Vairamani & another (AIR 2004 SC 4778), a decision cannot be relied on without disclosing the factual situation. In the same judgment this Court also observed : "Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of the context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not¹⁰ interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes". (emphasis supplied)

12. In London Graving Dock Co. Ltd. vs. Horton (1951 AC 737 at page 761), Lord Mac Dermot observed :

"The matter cannot, of course, be settled merely by treating the ip-sissima verba of Willes, J. as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge".

13. In Home Office vs. Dorset Yacht Co. (1970 (2) All ER 294) Lord Reid Said, "Lord Atkin's speech ... is not to be treated as if it was a statute definition; it will require qualification in new circumstances, Megarry, J. in (1971) 1 WLR 1062 observed :

"One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of Parliament".

14. And in Herrington vs. British Railways Board (1972 (2) WLR 537) Lord Morris said :

"There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases.

Disposal of cases by blindly placing reliance on a decision is not proper. The following words of Lord Denning in the matter of applying precedents have become locus classicus : Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo, J.) by matching the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive. Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and¹¹ branches. My plea is to keep the path of justice clear of obstructions which could impede it."

(emphasis supplied)

15. The same view was taken by this Court in *Sarva Shramik Sanghatana (K. V.), Mumbai vs. State of Maharashtra & Ors.* AIR 2008 SC 946 and in *Government of Karnataka & Ors. vs. Gowramma & Ors.* AIR 2008 SC 863.

37. In the case of **Bharat Petroleum Corpn. Ltd. and another vs. N.R. Vairamani and another** - (2004) 8 SCC 579, the Supreme Court has held hereinbelow:

"Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.

In London Graving Dock Co. Ltd. V. Horton (1951 AC 737 at p.761), Lord Mac Dermot observed: "The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."

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12 "There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case.

" Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper. The following words of Lord Denning in the matter of applying precedents have become locus classicus: "Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches.

My plea is to keep the path to justice clear of obstructions which could impede it."

38. Likewise, in the case of **Oriental Insurance Co. Ltd. vs. Smt. Raj Kumari and others**, AIR 2008 SC 403, the Supreme Court has held:

"11. Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judges decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well- settled theory of precedents, every decision contains three basic postulates (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts;¹³ (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa v. Sudhansu Sekhar Misra and Ors. (AIR 1968 SC 647) and Union of India and Ors. V. Dhanwanti Devi and Ors. (1996 (6) SCC 44). A case is a precedent and binding for what it explicitly decides and no more.

The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In Quinn v. Leathem (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides.

12. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclids theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. V. Horton (1951 AC 737 at p.761), Lord Mac Dermot observed: "The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."¹⁴ 13. In Home Office v. Dorset Yacht Co. (1970 (2) All ER 294) Lord Reid said, Lord Atkins speech.....is not to be treated as if it was a statute definition. It will require qualification in new circumstances. Megarry, J in (1971) 1 WLR 1062 observed: One must not, of course, construe even a reserved judgment of Russell L.J. as if it were

an Act of Parliament. And, in Herrington v. British Railways Board (1972 (2) WLR 537) Lord Morris said: "There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."

14. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases.

Disposal of cases by blindly placing reliance on a decision is not proper.

15. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches.

My plea is to keep the path to justice clear of obstructions which could impede it."

39. In **State Of Orissa & Ors vs Md. Illiyas**, 2006 (1) SCC 275, the Hon'ble Supreme Court has held that:

"According to the well-settled theory of precedents, every decision contains three basic postulates (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa v. Sudhansu Sekhar Misra and Ors. (AIR 1968 SC 647) and Union of India and Ors. v. Dhanwanti Devi and Ors. (1996 (6) SCC 44). A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In Quinn v. Leathem (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides."

40. The judgment in Rajiv Kumar (*supra*) does not apply to the facts of the present case, as the Supreme Court had no occasion to consider Rule 4(3)(b) of the Rules, 1999 or any provision analogous thereto. It is well settled that a judgment is an authority for what it actually decides and not for a proposition that may be deduced therefrom. Thus, the decision in **Ra-**

jiv Kumar (*supra*) is an authority on the interpretation of the provisions relating to deemed suspension contained in the CCA Rules, 1965 and has bearing with respect to CCA Rules, 1930 being subject matter of interpretation in **Chandra Shekhar Saxena** (*supra*). However, the CCA Rules, 1965 contain no provision *pari materia* with Rule 4(3)(b) of the Rules, 1999.

41. The Hon'ble Supreme Court, in **Rajiv Kumar** (*supra*), has held that the currency of deemed suspension continues until it is revoked or modified, on a conjoint reading of Rule 10(2)(a) and (b), as the case may be, read with Rule 5(a) and 5(c) of the CCA Rules, 1965. The Supreme Court further observed a statute is an edict of the legislature. The language employed in the statute or any statutory provision is a determinative factor of the legislative intent of policymakers. Thus, the ratio in **Rajiv Kumar** (*supra*) cannot be held to be an expression on 4(3)(b) of the Rules, 1999.

42. There is another provision under the Rules, 1999, namely Rule 4(2), which empowers the competent authority or the appointing authority to suspend a Government servant where an investigation, inquiry or trial relating to a criminal charge, connected with his position as a Government servant, likely to embarrass him in the discharge of his duties, or involving moral turpitude, is pending against him. Such power of suspension may be exercised by the appointing authority or the authority to whom the power of suspension has been delegated, and may continue until termination of the proceedings relating to such charge, notwithstanding the Government servant's detention or custody. Thus, the power exercisable for suspension pending criminal proceedings referable to Rule 4(2) and deemed suspension referable to Rule 4(3)(a) where sine qua non is detention exceeding forty-eight hours, operates distinctly with different object and purpose.

43. The competent authority failed to consider the petitioner's representation seeking revocation of deemed suspension for a considerable period and, in the absence of any reasoned order, the continuance of such deemed suspension is in the teeth of Rule 4(3)(b) read with Rule 4(8) of the Rules, 1999.

44. A bare reading of Rule 4(8) of the Rules, 1999 makes it clear that any suspension ordered, or deemed to have been ordered or to have continued in force, under the Rules, shall remain in force until it is modified or revoked by the competent authority. The expression “to have continued in force” has a definite purpose and meaning. Where deemed suspension is sought to be continued beyond the date of release from custody, such continuance must be founded upon an expressed order of the competent authority and is referable to expression ‘to have continued in force’. Thus, conjoint reading of Rule 4(8) with Rule 4(3)(b), the statutory scheme indicates that an express decision is required for giving further continuance to deemed suspension. Consequently, the competent authority cannot be allowed to remain inactive upon receipt of a representation from the Government servant, after his release on bail, seeking revocation of deemed suspension and permission to resume duties.

45. The question that arises for consideration is whether the first limb of the requirement of passing an express order for giving a conscious expression to deemed suspension is mandatory or directory.

46. To understand, whether a rule, or a particular part of it, is directory or mandatory in nature. This Court is mindful to certain authorities of the Supreme Court shedding light on the field.

47. The Supreme Court, in **Lifestyle Equities C.V. and another Vs. Amazon Technologies Inc**, (2026) 3 SCC 641, particularly in paragraphs 58, 59 and 60 has laid down the principles required to be followed by a Court, while interpreting a provision of a statute. For ready reference, paragraph nos.58, 59 and 60 of the judgment in **Lifestyle Equities** (*supra*) are reproduced hereinbelow:

“58. The well-settled principles required to be followed by a court while interpreting a provision of a statute is that the intention of the legislature is primarily to be gathered from the language used, and consequently, a construction which results in rejection of words as meaningless, has to be avoided. It is not a sound principle of construction to brush aside words or phrase in a statute as being inapposite surplusage if they can have appropriate application in circumstances conceivably within the contemplation of the statute. In interpretation of statutes, the courts always presume that the legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect. The legislature is deemed not to waste its words, or to say anything in vain. [See: [Mithilesh Singh v. Union of India](#), reported in (2003) 3 SCC 309].

59. Similarly, in the case of *Padma Sundara Rao v. State of Tamil Nadu*, reported in (2002) 3 SCC 533, it was held that two principles of construction – one relating to *casus omissus*, and the other in regard to reading the statute as a whole appear to be well-settled. Under the first principle, the rule of *casus omissus* cannot be supplied by the court except in the case of clear necessity. The rule of *casus omissus* should not be readily inferred and for that purpose, all the parts of a statute or section must be construed together and every clause of a section should be construed with reference to the context of the statute and other clauses thereof, so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more so, if literal construction of a particular clause leads to manifestly absurd or anomalous results, which could not have been intended by the legislature. Therefore, if the language is plain, there is no necessity of taking aid of external aid for gathering the real intention of the legislature.

60. Over and above, we should bear in mind the following well-known rule of interpretation of the statute reiterated by this Court in the case of [Union of India v. Deoki Nandan Agarwal](#), reported in 1992 Supp (1) SCC 323:

“It is not the duty of the Court either to enlarge the scope of the legislation or the intention of the Legislature when the language of the provision is plain and unambiguous. The Court cannot rewrite, recast or reframe the legislation for the very good reason that it has no power to legislate. The power to legislate has not been conferred on the Courts. The Court cannot add words to a statute or read words into it which are not there. Assuming there is a defect or an omission in the words used by the Legislature the Court could not go to its aid to correct or make up the deficiency. Courts shall decide what the law is and not what it should be. The Court of course adopts a construction which will carry out the obvious intention of the Legislature but could not legislate itself. But to invoke judicial activism to set at naught legislative judgment is subversive of the Constitutional harmony and comity of instrumentalities.”

(Emphasis added)

48. In the recent judgement of the Supreme Court in **S.P. Chandrakar Vs. State of Chhattisgarh & Ors**, 2026 SCC OnLine SC 1444, has reiterated that the language of the statute is the determinative factor to establish that whether the rule or part of the rule is mandatory or directory. The relevant paragraphs of **S.P.Chandrakar** (*supra*) read:

“12. In the ordinary sense, ‘shall’ is obligatory and ‘may’ is directory, but that is not a universal rule. In certain contexts, ‘shall’ can also be directory. In such a situation, the interpretation of the word ‘shall’ is what will determine the validity of these Rules.

12.1 A Constitution Bench in [State of U.P. v. Manbodhan Lal Srivastava](#) while interpreting the word ‘shall’ as used in [Article 320](#) of the Constitution of India speaking through B.P. Sinha J. as he then was, held thus:

“12.... Hence, the use of the word “shall” in a statute, though generally taken in a mandatory sense, does not necessarily mean that in every case it shall have that effect, that is to say, that unless the words of the statute are punctiliously followed, the proceeding or the outcome of the proceeding, would be invalid. On the other hand, it is not always correct to say that where the word “may” has been used, the statute is only permissive or directory in the sense that non-compliance with those provisions will not render the proceeding invalid. In that

connection, the following quotation from Crawford on Statutory Construction —Article 261 at p. 516, is pertinent:

“The question as to whether a statute is mandatory or directory depends upon the intent of the legislature and not upon the language in which the intent is clothed. The meaning and intention of the legislature must (1957) 2 SCC 759 govern, and these are to be ascertained, not only from the phraseology of the provision, but also by considering its nature, its design, and the consequences which would follow from construing it the one way or the other....”

12.2 In [State of U.P. v. Babu Ram Upadhyaya](#)⁷, a Constitution Bench was concerned with the nature of para 486 of the Police Regulations in connection with chapter XIV [CrPC](#). K. Subba Rao J. in para 28 referred to various authorities and concluded in para 29 as follows:

“29. The relevant rules of interpretation may be briefly stated thus:

“When a statute uses the word “shall”, prima facie, it is mandatory, but the Court may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute. For ascertaining the real intention of the Legislature the Court may consider, inter alia, the nature and the design of the statute, and the consequences which would follow from construing it the one way or the other, the impact of other provisions whereby the necessity of complying with the provisions in question is avoided, the circumstance, namely, that the statute provides for a contingency of the non-compliance with the provisions, the fact that the non-compliance with the provisions is or is not visited by some penalty, the serious or trivial consequences that flow therefrom, and, above all, whether the object of the legislation will be defeated or furthered.”

12.3 A Constitution Bench in [Bhikraj Jaipuria v. Union of India](#)⁸ while referring to Maxwell on Interpretation of Statutes, observed as follows:

“16. ... Where a statute requires that a thing shall be done in the prescribed manner or form but does not set out the consequences of non-compliance, the question whether the provision was mandatory or directory has to be adjudged in the light of the intention of the legislature as disclosed by the object, purpose and scope of the statute. If the statute is mandatory, the thing done not in the manner or form prescribed can have no effect or validity : if it is directory, penalty may be incurred for non-compliance, but the act or thing done is regarded as good. As observed in Maxwell on Interpretation of Statutes, 10th Edn., p. 376:

“It has been said that no rule can be laid down for determining whether the command is to be considered as a mere direction or instruction involving no invalidating consequence in its disregard, or as imperative, with an 1960 SCC OnLine SC 5 1961 SCC OnLine SC 34 implied nullification for disobedience, beyond the fundamental one that it depends on the scope and object of the enactment. It may perhaps be found generally correct to say that nullification is the natural and usual consequence of disobedience, but the question is in the main governed by considerations of convenience and justice, and when that result would involve general inconvenience or injustice to innocent persons, or advantage to those guilty of the neglect, without promoting the real aim and ob-

ject of the enactment, such an intention is not to be attributed to the legislature. The whole scope and purpose of the statute under consideration must be re-garded.” Lord Campbell in *Liverpool Borough Bank v. Turner* [(1861) 30 LJ Ch 379] observed:

“No universal rule can be laid down as to whether mandatory enactments shall be considered directory only or obligatory with an implied nullification for disobedience. It is the duty of courts of justice to try to get at the real intention of the legislature by carefully attending to the whole scope of the statute to be construed.”

49. The use of the word ‘shall’ carries a *prima facie* obligation, which the Supreme Court accepted in **State of U.P. v. Babu Ram Upadhyaya**, AIR 1961 SC 751, while adding that the Court may still ascertain the real intention of the legislature from the nature and design of the statute and the consequences that would follow from construing the provision in one way or the other.

50. A Constitution Bench of the Supreme Court have broken it down in **Raza Buland Sugar Co.Ltd. v. Municipal Board, Rampur**, AIR 1965 SC 895, held that the question cannot be resolved by laying down any general rule and depends on the facts of each case. It turns on the intent of the law-maker, gathered not only from the phraseology of the provision but also from the nature and design of the statute and from the consequences that would follow from construing it in one way or the other.

51. Thus, we find that the test is the intention of the legislature, as held by the Constitution Bench in **Raza Buland Sugar**(*supra*) holds that no general rule can be laid down for finding it, so the answer depends on the facts of each case. The factor that decides most disputes in practice is whether the statute states a consequence for non-compliance and whether it confers any power to condone the breach. Where both are present, the provision is almost always mandatory.

52. The legislative intent underlying Rule 4(3)(b) of the Rules, 1999, which was absent in the CCA Rules, 1930 as well as CCA Rules, 1965, is not merely to provide an opportunity to the Government servant to seek revocation or modification of deemed suspension, but also to obligate the competent authority to take a conscious decision regarding its continuance. Such decision has significance not only for the Government servant,

who may otherwise continue to receive subsistence allowance and, upon acquittal, may claim consequential service benefits, but also for the public at large, which is deprived of the services of the Government servant during the period of suspension. The decision regarding continuance of deemed suspension is, therefore, a matter of concern for the Government, the Government servant and inconvenience to the public at large. The legislative intent underlying Rule 4(3)(b) is thus clear: the requirement of an express decision for continuance of deemed suspension is mandatory. Any other interpretation would render the latter part of the provision otiose and meaningless, which is a construction that ought to be avoided.

53. In the interpretation of statutes, it is a settled principle that every part of a statutory provision is presumed to have been enacted for a purpose, and that the legislature does not waste and use words in vain. Each word and expression employed by the legislature must, therefore, be given meaning and effect. If the requirement of taking an express decision for continuance of deemed suspension were to be treated as directory and could be dispensed with, the latter part of Rule 4(3)(b), which mandates taking of such decision, would be rendered nugatory.

54. Rule 4(3)(b) was introduced with a specific statutory purpose, namely, to ensure that deemed suspension does not continue indefinitely after the Government servant is released from custody without a conscious decision by the competent authority. The provision, therefore, requires an express order for giving further effect to the deemed suspension after release from custody upon consideration of the representation made by the Government servant, though the deemed suspension does not automatically cease to exist in absence of conscious decision on the representation of the delinquent employee but the mandate of taking decision on the representation is an expression by Rules, 1999.

55. The later part of Rule 4(3)(b), which imposes an obligation upon the competent authority to take a decision on the representation of a delinquent employee after his admission on bail, appears to be mandatory in character. Considering the nature of Rule 4(3)(b) and the language in which it has been couched, it is clearly indicative that a conscious

decision, considering the relevant facts, circumstances and material on record in the light of the provisions of the Rules, is the intent of the rule-makers, and that the decision must be taken and a delinquent employee cannot be kept in limbo, as such decision serves the best interest not only of the delinquent employee but also of the public at large, to whom he has been inducted for rendering services.

56. Though the consequence of not taking a decision on the representation is not mentioned in the Rule itself, it has a bearing on public money, as a delinquent employee may become entitled to salary and other consequential benefits without rendering de facto service, if the criminal proceedings do not culminate in conviction. Thus, prudence requires that the decision must be taken with promptitude, in either way, and the Rule was never framed in such a fashion that the competent authority could be allowed to remain in slumber for an inordinate period and thereafter, without any change of circumstances, take a decision which could have been taken at the beginning upon submission of the representation.

57. This Court fails to understand what object, in the light of the Rules, could be understood to have been fulfilled by not taking a decision for almost two years and then taking a decision under the compulsion of an order passed by this court. The object, purpose and scope of the Rules for deciding the representation against deemed suspension are in the interest of both the delinquent employee and the institution. The discretion vested in the competent authority is also not unguided; rather, such discretion is to be exercised keeping in view the intent and the scheme of the Rules by examining the facts and circumstances set out in the representation.

58. Rule 4(3)(b) confers discretion upon the competent authority to either continue, revoke or modify the deemed suspension, the exercise of any of these three options necessarily requires a conscious decision founded upon consideration of the representation and the facts and circumstances of the case. All the three aforesaid options are dependent upon a decision to be taken by the competent authority. In the present case, however, the period commencing from the submission of the petitioner's representation after

his release on bail till the revocation of suspension, spanning nearly two years, remained without any conscious decision by the competent authority. The competent authority, therefore, erred in law in failing to pass an appropriate order in respect of the said period.

59. Had Rule 4(3)(b) of the Rules, 1999 not been in the statutory rules, the conjoint reading of rule Rule 4(3)(a) and 4(8) of the Rules, 1999 could have projected altogether a different picture that is not requiring any conscious decision for continuation of deemed suspension and deemed suspension must have operated by fiction of law but it is Rule 4(3)(b) of the Rules, 1999 rules which persuaded this court to take a view that a conscious decision for continuation of suspension is required by statutory mandate of rules itself, and such decision must be taken with promptitude.

60. It is beyond cavil or doubt that, on a conjoint reading of Rule 4(3)(b) and Rule 4(8) of the Rules, 1999, the deemed suspension remains in force until it is modified or revoked by the competent authority. However, its continuance beyond the date of release from custody must be founded upon an express order. Though it does not automatically ceases. As the latter part of Rule 4(3)(b) provides that, upon consideration of the representation in the light of the facts and circumstances of the case and the provisions contained in the Rules, the competent authority shall pass an appropriate order continuing the deemed suspension from the date of release from custody satisfying the phrase 'to have continued in force' contained in Rule 4(8). Thus, the only inference that can be drawn is that an express order, passed upon consideration of the representation in the light of the facts and circumstances of the case and the provisions of the Rules, 1999, is necessary for the continuance of deemed suspension beyond the date of release from custody, unless the same is revoked or modified.

61. A fortiori is deemed suspension does not automatically ceases after release of delinquent employee from detention, it must be followed by an order complying mandate of Section 4(3) (b) of 1999 Rules. Such order must be passed with promptitude without any unreasonable delay as delay is the facet of unreasonableness giving rise to arbitrariness.

62. If competent authority is allowed to sit tight upon representation made under Rule 4(3)(b) of 1999 Rules by delinquent employee, same would be attaching premium to inaction of competent authority/appointing authority.

63. A bare perusal of the impugned order reflects that the competent authority failed to discharge its statutory obligation by passing any order regarding the continuance of deemed suspension from the date of the petitioner's release from custody till its eventual revocation. The impugned order is conspicuously bereft of reasons; the only observation made therein is that the question of treating the petitioner as being in service and his entitlement to salary would depend upon the outcome of the criminal cases. Such an order does not satisfy the mandate of Rule 4(3)(b) of the Rules, 1999.

64. If the continuance of deemed suspension during the aforesaid period is sought to be justified, the same shall be supported by reasons in writing by passing fresh order. It is significant that both the criminal cases were pending, when the petitioner submitted his representation seeking revocation of suspension and when the suspension was ultimately revoked. Thus, if the suspension could be revoked after a lapse of approximately two years, the competent authority must consider whether there existed any justification for not taking such a decision upon receipt of the petitioner's representation. Since no valid and legal reasons for deferring the decision have been recorded in the impugned order, this Court would not undertake such an assessment in the first instance. It is for the competent primary adjudicating authority to examine whether the continuance of deemed suspension for the intervening period, merely on the ground of pendency of criminal proceedings, was justified and has served any purpose in the facts and circumstances of the case.

65. The question of the petitioner's entitlement to salary for the period subsequent to his release from custody till revocation of suspension shall accordingly be determined on the basis of the *de-novo* decision taken by the competent authority regarding the validity and justification of the con-

tinuance of deemed suspension during the said period. The decision so taken shall be well reasoned.

66. In view of the foregoing reasons, the impugned order dated 12.07.2024 is unsustainable in law and is, accordingly, set aside. Respondent No. 3, namely, the Under Secretary, Medical, Health and Family Welfare, U.P., Civil Secretariat, Lucknow, is directed to reconsider the issue of payment of salary for the period of deemed suspension, excluding the period of detention, afresh, and pass a reasoned and speaking order in terms of observations and remarks made in proceedings paragraph of this judgment within a period of two months from the date of production of a certified copy of this order.

67. The writ petition is **allowed** in aforesaid terms.

68. No order as to costs.

69. Let a copy of this order be communicated to the Respondent No. 3, namely, the Under Secretary, Medical, Health and Family Welfare, U.P., Civil Secretariat, Lucknow through Registrar Compliance within 48 hours.

70. The Court places on record its sincere appreciation for the diligent efforts demonstrated by Ms. Shreya Shukla, Research Associate. Her meticulous analysis, clarity of thought, and keen attention to the legal issues involved have been of considerable assistance to the Court in adjudicating the present matter.

(Indrajeet Shukla,J.)

September 29, 2026

Pratima