

Court No. - 20

Case :- WRIT - A No. - 7207 of 2023

Petitioner :- Chitra Dheer

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Social Welfare, Lucknow And 3 Others

Counsel for Petitioner :- Manish Jauhari, Ambuj Kumar Bajpai

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties no. 1, 2 and 3.

2. In view of order being proposed to be passed, notices to opposite party no.4 stand dispensed with.

3. On 26.09.2023, the followed order had been passed:

"Heard learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties 1 to 3. at present notices to opposite party No.4 stand dispensed with.

Petition has been filed challenging suspension order dated 20th April, 2022 and the order dated 5th August, 2022 whereby petitioner's representation against suspension has been rejected.

Earlier petitioner had filed writ A No. 3269 of 2022 challenging the suspension order. The said writ petition was disposed of vide order dated 26th May, 2022 giving liberty to petitioner to make a representation against suspension order, which having been done, has been rejected by means of impugned order dated 5th August, 2022.

It has been submitted that despite almost one and half years having been passed since suspension of petitioner, no further proceedings have been held in the inquiry despite reply having been submitted by petitioner and therefore it is submitted that petitioner can not be kept under suspension interminably. He has placed reliance on judgment rendered by Hon'ble Supreme Court in the case of Ajay Kumar Chaudhary versus Union of India 2015 (7) Supreme Court Cases page No. 291.

With regard to aforesaid submissions, learned State Counsel is granted a week's time to seek instructions.

List on 6th October, 2023 as fresh. "

4. In pursuance of aforesaid directions, learned State Counsel has been provided written instructions dated 10.10.2023, which are taken on record and as per which charge-sheet has been issued to petitioner on 14.06.2022 to which the reply was submitted on 02.07.2022 but no progress was made in the

inquiry due to transfer of Inquiry Officer. It has been stated that now vide order dated 06.10.2023, Ms. Sunita Singh, District Social Welfare Officer, Lucknow has been nominated as the Inquiry Officer.

5. Considering the aforesaid facts, it is quite evident that ever-since issuance of charge-sheet to petitioner on 14.06.2022, the proceedings are only at the stage of reply submitted by petitioner and no further action has been taken there against.

6. Hon'ble the Supreme Court in the case of **Ajay Kumar Choudhary versus Union of India through Its Secretary & Anr.** reported in **(2015) 7 Supreme Court Cases 291** has held as follows:

"21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

7. Upon applicability of aforesaid judgment in the present facts and circumstances of the case, it is quite evident that inquiry proceedings are pending only at the stage of submission of reply by petitioner for more than one year. Present Inquiry Officer has also recently been nominated on 16.10.2023. There is absolutely no explanation as to why a fresh Inquiry Officer could not be nominated ever-since December, 2022 when the last Inquiry Officer was transferred. Evidently the department is unduly prolonging the Inquiry proceedings.

8. In view of aforesaid, the impugned suspension order dated 20.04.2022 as well as order dated 05.08.2022 rejecting petitioner's representation there against are quashed by issuance of a writ in the nature of Certiorari with a direction to opposite parties to conclude Inquiry proceedings expeditiously subject to

cooperation by the petitioner within a period of four months from the date a certified copy of this order is produced before concerned authority. Petitioner is also granted liberty to file a representation before the concerned authority for payment of subsistence allowance @ 75% as is being claimed by him. Such a representation shall be decided within a period of two weeks from the date of his submission.

9. With the aforesaid directions, petition is **allowed**. Parties to bear their own costs.

Order Date :- 16.10.2023

Subodh/-