

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1922 of 2016

Hariram Sahu S/o Anuj Ram Sahu, Aged About 48 Years (Suspended Shiksha Karmi Grade II), R/o Village Semariya (Samoda), Tahsil Arang District Raipur Chhattigarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur Chhattisgarh
2. Chief Executive Officer, Jila Panchayat Raipur, District Raipur Chhattisgarh
3. Block Education Officer, Arang, District Raipur Chhattisgarh

---- Respondents

Shri Vinod Deshmukh, counsel for the petitioner/s.
Shri Dhiraj Wankhede, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/06/2016

The petitioner has filed this petition seeking a direction to respondents to consider the case of revocation of suspension order which was issued way back on 24/07/2010.

2. Relying upon the Government circular dated 02/07/2012 (Annexure P/2), learned counsel for the petitioner submits that the petitioner has been suspended on institution of criminal proceedings and those proceedings have not been completed within a reasonable time. Therefore, further continuance of suspension is required to be considered and if no justification is found for further continuance, it is liable to be revoked.

The petitioner was suspended vide order dated 24/07/2010. Almost six years have elapsed. The criminal case has not been concluded till date. Therefore, in these circumstances, the case of the petitioner would require consideration for revocation in terms of circular dated 02/07/2012.

3. Learned State counsel does not dispute the policy considerations as engrafted in circular dated 02/07/2012. He, however, submits that the competent authority would require consideration of all the relevant aspects including the date of arrest, date of framing of charge and the period of delay occurred in the criminal trial.

4. Present is a case where the suspension of the petitioner was as a result of arrest and institution of criminal proceedings on the allegation of having committed offence under Indian Penal Code. It has been clearly stated in the petition on affidavit that till date, criminal proceedings have not been concluded. The petitioner has remained under suspension for almost six years. This is too long a time. It is well known that if the suspension is continued for a long time, employee is entitled to 75% of his salary as subsistence allowance. This would mean that the employee will get 75% of his salary without working. Therefore, in these circumstances, policy decision of the Government rightly requires consideration of the case for revocation of suspension. However, all the relevant circumstances are required to be looked into. Many a times, public consideration may out-weigh the individual grievance. However, such cases are rare and not too often. It is not a case where the petitioner is an accused of having committed heinous offence like murder, sexual harassment or any case of corruption. Therefore, in these backdrop and that the petitioner has remained under suspension and may be getting 75% of his salary as subsistence allowance without doing any work, the competent authority / respondent No.2, the Chief Executive Officer, Jila Panchayat is directed to consider petitioner's case for revocation, taking into consideration all relevant circumstances, particularly taking into consideration long period of suspension and that he is not facing heinous charges of the category enumerated hereinabove. The decision shall be taken within a period of 45 days from the date of submission of copy of this order and fresh representation. The petitioner should submit fresh representation within a period of two weeks from today before the Chief Executive Officer.

5. With the aforesaid observations, the petition is finally disposed off.

Sd/-

(Manindra Mohan Shrivastava)
Judge