

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1915 of 2016

Babulal Khalkho S/o Gudru Khalkho, Aged About 35 Years Posted As Astd. Teacher Panchayat Govt. Primary School Bhulumuda, Block Offie Baramkela, R/o Village Kurra, P.S. & Tahsil Lailunga. District Raigarh Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Deptment Mantralaya, New Raipur P.S. Rakhi, District Raipur Chhattisgarh
2. The Collector, Raigarh, District Raigarh Chhattisgarh
3. The Chief Executive Officer, Janpad Panchayat, Baramkela, District Raigarh Chhattisgarh

---- Respondents

Shri Manoj Kumar Jaiswal, counsel for the petitioner/s.
Shri R.K.Gupta, Dy.A.G. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/06/2016

The petitioner has filed this petition aggrieved by the suspension order by which, he has been placed under suspension. The order of suspension is challenged mainly on the ground that it is in violation of principles of natural justice.

2. According to learned counsel for the petitioner, suspension results in serious consequences. Therefore, it is required to precede an opportunity of hearing.
3. Learned State counsel opposes submission and submits that in the absence of there being any provision under the governing disciplinary rules, no opportunity of hearing is necessary.
4. It is well settled canon of service jurisprudence that before placing an

employee under suspension, no opportunity of hearing is required. It is equally well settled that suspension is not a punishment by itself but it is only a step towards initiation of disciplinary action. It is only an administrative arrangement to keep an employee away from work without actual disruption of service. During suspension, the employee is entitled to subsistence allowance.

5. It is not a case where the service rules prohibits suspension without affording opportunity of hearing. Therefore, in the absence of any statutory protection, the petitioner cannot raise any grievance that before placing him under suspension, he was not heard. On this count, therefore, no relief can be granted.

6. There is some substance in the grievance of the petitioner which has arisen on account of long continuance of suspension and that too without giving any charge sheet to the petitioner. Though there is no provision for automatic revocation of suspension, in case, charge sheet is not served within a reasonable time, as a requirement of fairness, suspension ought not to be continued indefinitely. Moreover, once an employee is placed under suspension, the disciplinary authority is duty bound to conclude the enquiry at the earliest. Where charge sheet has not been issued for months together, it may require reconsideration of the case whether continuance of suspension is necessary or not. This power is available to the competent authority under Rule 4 (5) of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999.

7. Therefore, only to the limited extent for consideration whether without issuance of charge sheet, the petitioner is required to be continued under suspension, no other direction can be issued in this matter.

8. At this stage, the petition is disposed off giving liberty to the petitioner to represent before the competent authority for revocation of suspension and the competent authority shall consider whether without issuance of charge sheet, it would be proper in the administrative interest to continue the petitioner under suspension. The decision should be taken by the competent authority within a period of 30 days from the date, representation is made by the petitioner.

Sd/-
(Manindra Mohan Shrivastava)
Judge