

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2657 of 2017

=====

1. Smt. Rita Singh, Wife of Sri Dudhnath Singh, Resident of Mohalla- New Chitragupta Nagar, Parbati Path, Behind Ram Kumar Apartment Adhikari Bhawan, Kankarbagh, Patna-20, Presently posted as Lady Supervisor, Child Development Project Office, Patna Sadar-4. (Now Suspended).

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department, Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. Dr. Sri Kari Prasad Mahto, The District Programme Officer, Bihar, Patna.
4. Smt. Rekha Kumar, The Child Development Project Officer, Patna Sadar-4.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Dudh Nath Singh, Advocate
For the Respondent/s : Mr. Md. Obaidullah, A.C. to S.C.-10

=====

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

2 07-06-2017 Heard learned counsel for the petitioner and learned
A.C. to S.C.-10 for the respondents.

This writ application has been preferred for quashing the Office order contained in Memo No. Stha/BI-18/2011 141Stha dated 07.01.2017, Annexure-1, passed by the Secretary to Commissioner, Patna Division, Patna, whereby the petitioner has been put under suspension with immediate effect in terms of Section 9(i)(ka) of the Bihar Government Servant (Classification, Control and Appeal) Rule 2005.

Earlier, the petitioner, being Lady Supervisor, was appointed in the year 1984 in the Department of Social Welfare,



Government of Bihar, but subsequently, she was put under suspension vide order dated 07.01.2017 passed by the Secretary to Commissioner, Patna Division, Patna. (Annexure-1).

It was submitted by the learned counsel for the petitioner that in absence of the memorandum of charge even after 30 days, continuance of suspension for such a long period appears to be like the punitive measure, which has been denounced by the Hon'ble Supreme Court in a case reported in *AIR 2015, Supreme Court 2389 (Ajay Kumar Chaudhary Versus Union of India)*. It has further been submitted that in the interest of justice, the impugned suspension should at least be revoked and the respondent authorities may left with option to proceed with departmental proceeding.

Besides hearing learned counsel for the petitioner, I have also perused the materials available on record. Admittedly, in the case in hand, the petitioner has been put under suspension vide order dated 27.01.2017 and till today memorandum of charges has not been served to the petitioner even after lapse of 90 days. Since more than five months have been passed, therefore, such state of affairs cannot be allowed to continue for and indefinite period. Moreover, the Hon'ble Apex Court in the case of *Ajay Kumar Chaudhary Versus Union of India*, reported in *AIR 2015, SC*



2389 has observed that;

“We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period Memorandum of Charges/ Chargesheet is not served on the delinquent officer/employee, if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension.”

In view of the discussions made hereinabove and in view of the settled principle of law laid down by the Apex Court, as discussed above, the impugned order deserves to be quashed.

Accordingly, Office order contained in Memo No. Stha/BI-18/2011 141Stha dated 07.01.2017, Annexure-1, passed by the Secretary to Commissioner, Patna Division, Patna, is, hereby, quashed.

This writ petition stands allowed. However, the respondents are at liberty to proceed with the departmental proceeding against the petitioner.

(Arvind Srivastava, J.)

Brajesh/-

U			
---	--	--	--

