

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5447 of 2017

Smt. Pushpa Patel W/o Shri Panna Lal Patel, Aged About 41 Years R/o Village Lamgaon Police Station Raghunathpur, Janpad Panchayat Lundra District Surguja Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat And Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex. Naya Raipur, District Raipur Chhattisgarh.
2. Chief Executive Officer, Zila Panchayat, Ambikapur, District Surguja Chhattisgarh.
3. The Collector, Ambikapur, District Surguja Chhattisgarh.
4. Janpad Panchayat, Lundra, Through Its Chief Executive Officer, Janpad Panchayat, Lundra District Balrampur, Ramanujganj Chhattisgarh.
5. Block Education Officer, Lundra, Police Station Lundra Tahsil And Janpad Panchayat Lundra District Surguja Chhattisgarh.

---- Respondents

Shri A.K.Yadav, counsel for the petitioner/s.
Shri A.S.Kachhawaha, Addl. A.G. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/10/2017

The petitioner's grievance as ventilated through this petition is that the petitioner is continuing under suspension for the last 2½ years and the departmental enquiry has remained pending.

2. Though the petitioner has not challenged the order of suspension at its inception, its long continuance is arbitrary and liable to be revoked in view of the judicial pronouncement of the Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India** through its **Secretary and anr., (2015) 7 SCC**

291, wherein the issue with regard to long continuance of suspension was considered and the practice of keeping an employee under suspension for a long time was deprecated and following observations were made :-

“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 concerned person 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 recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that 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.”

3. In view of the aforesaid authoritative pronouncement of the Supreme Court in the case of **Ajay Kumar Choudhary** (supra), long continuance of suspension should not be resorted to, as a matter of practice.

4. Taking into consideration the nature of allegations against the petitioner and that the departmental enquiry has not been concluded for the last 2 ½ years, there

is absolutely no justification for continuance of suspension order for such a long period. Respondent No.4 is directed to consider the case of the petitioner in the light of the decision of the Supreme Court as referred to above and pass necessary orders for revocation of suspension at the earliest.

5. The petition is accordingly finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge