

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3477 of 2017

Jagdish Prasad Nishad S/o Shri Dhani Ram Nishad, Aged About 61 Years Working As Assistant Internal Audit And Taxation Officer, Janpad Panchayat Podi Uroda, Block Podi Uroda, R/o Shati Nagar, Lailunga, Tahsil Lailunga, District Raigarh, Civil And Revenue District Raigarh (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat And Social Welfare Department, Mahanadi Bhavan, Mantralaya, New Raipur (Chhattisgarh).
2. Director, Panchayat And Social Welfare Department, Indrawati Bhawan, Raipur, District Raipur (Chhattisgarh).
3. Deputy Director, Panchayat And Social Welfare Department, Bilaspur Division, District Bilaspur (Chhattisgarh).
4. Deputy Director, Panchayat And Social Welfare Department, Korba District Korba (Chhattisgarh).
5. The Collector, Korba District Korba (Chhattisgarh).
6. Chief Executive Officer, Zila Panchayat, Korba, District Korba (Chhattisgarh).
7. Chief Executive Officer, Janpad Panchayat, Podi Uroda, District Korba (Chhattisgarh).

---- Respondents

For Petitioner	:	Mr. M.K. Sinha, Advocate
For Respondent-State	:	Mr. S.P. Kale, Dy. A.G.

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

01/08/2017

Heard on admission.

1. This petition has been filed by the petitioner aggrieved by long continuation of suspension. Learned counsel for the petitioner submits that on certain allegations of criminal breach of trust, the petitioner was placed under suspension, a criminal case was registered and departmental enquiry was also instituted against the petitioner way back in the year 2009. He submits that ever since 2009, the petitioner is continuing under suspension and neither the criminal case has been concluded nor departmental enquiry. The petitioner at this stage is entitled to be considered for revocation of long continuation of suspension which is against the law declared by the Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India through its Secretary and another, (2015) 7 SCC 291.**
2. It appears that the petitioner has remained under suspension ever since 24.12.2009 that is more than 6 ½ years. It is too long period to keep an employee under suspension. True, it is that a departmental enquiry and a criminal case is also pending against the petitioner. However, suspension cannot continue for indefinite period on such ground. This practice has been seriously deprecated by the Supreme Court in its authoritative pronouncement in the case of Ajay Kumar Choudhary (supra), wherein their Lordships in the Supreme Court expressed their concern against long continuation of suspension by observing thus :

“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 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.”

3. In view of the above, it is incumbent on the respondent No.6 to take up for consideration the petitioner's case for revocation of suspension by applying the principles laid down by the Supreme Court in the case of *Ajay Kumar Chaudhary (supra)*. The decision must be taken by respondent No.6 within a period of 30 days from the date of receipt of copy of this order.
4. With the aforesaid direction, the petition is disposed off.

Sd/-

(Manindra Mohan Shrivastava)
Judge