

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.4380 of 2017

- Ravi Chouhan W/o Shankar Chouhan, Aged About 53 Years Working As Hostel Superintendent, R/o Ward No. 15, Mahalpara, Saraipali, Police Station & Tahsil Saraipali, District Mahasamund Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Tribal Welfare Department, Mahanadi Bhawan, Mantralaya New Raipur, Chhattisgarh.
2. The Collector (Tribal Development), Raipur, Distirct Raipur, Cfhhattisgarh.
3. The Assistant Commissioner, Tribal Development , Raipur, Chhattisgarh.

---- **Respondents**

For Petitioner	:	Shri Sanjeev Kumar Sahu, Advocate
For Respondent/State	:	Shri Manish Nigam, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

06/10/2017

Heard.

2. Though return has not been filed, in view of the directions issued by the Supreme Court in the case of ***Ajay Kumar Choudhary V. Union of India, (2015) 7 SCC 291***, learned State counsel would submit that this petition may be disposed off with a direction to respondent authority for revocation of suspension.

3. On certain allegations, the petitioner was suspended on 20-03-2009. It is not in dispute that the departmental enquiry of the petitioner has remained pending without any decision till date, as a result of which, the petitioner is still under suspension for the last more than 8 years.

4. Long suspension without proper decision has been strictly deprecated by the Supreme Court time and again and also by this Court. In a recent pronouncement of

the Supreme Court in the case of **Ajay Kumar Choudhary** (supra), Their Lordships in the Supreme Court expressed their concern, 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.”

5. I have gone through the contents of the charge sheet and nature of allegations levelled against the petitioner. I find that the charges are no so grave to put the petitioner under suspension for such a long time. Suspension is not a punishment. The purpose of Employer to suspend any employee is not a punishment, but only to keep employee away from work in appropriate cases of grave charges for similar considerations.

6. Viewed from any angle, I do not find any justification to continue the petitioner under suspension for such a long period. As departmental enquiry has not been concluded, it would be proper to issue direction to the respondent No.3-Assistant Commissioner Tribal Development, Raipur to consider and pass an order of revocation of suspension forthwith.

7. The petition is accordingly finally disposed off.

SD/-
(Manindra Mohan Shrivastava)
Judge