

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.6307 of 2017

- Amit Shukla S/o Anil Chand Shukla, Aged About 31 Years Working As Branch Manager (Under Suspension) (Earlier Working As Additional Chief Executive Officer, District Cooperative Central Bank, Bilaspur), Branch Old Bus Stand, Bilaspur, District Bilaspur, Chhattisgarh. R/o 303, Geetanjali City, Seepat Road, Phase I I , Sarkanda, Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Cooperative Societies, Mahanadi Mantralaya, Naya Raipur, Post Office And Police Station Naya Raipur, District Raipur, Chhattisgarh.
2. Registrar, Cooperative Societies, Indrawati Bhawan, Naya Raipur, Post Office And Police Station Naya Raipur, District Raipur, Chhattisgarh.
3. Joint Registrar, Cooperative Societies, Bilaspur, Chhattisgarh.
4. Deputy Registrar, Cooperative Societies, Bilaspur, Chhattisgarh.
5. District Cooperative Central Bank Maryadit, Bilaspur, Through The Chief Executive Officer, District Cooperative Central Bank Maryadit, Nehru Chowk, Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri A. V. Shridhar, Advocate
For Respondents No.1 to 4:	:	Ms. Sunita Jain, Panel Lawyer
For Respondent No.5	:	Shri Jitendra Shrivastava, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

22/11/2017

Heard.

2. Grievance of the petitioner is that his suspension is continuing even after lapse of more than 1 & ½ years and even though, the departmental enquiry is complete and in the enquiry report submitted by the Enquiry Officer, none of the

charges have been found proved.

3. In view of the order passed by this Court in the case of ***Bhagwat Prasad Yadav vs. State of Chhattisgarh and others (W.P.(S)No.1654 of 2017, decided on 08-05-2017***), wherein this Court relying upon the judgment of the Supreme Court in the case of ***Ajay Kumar Choudhary vs. Union of India through its Secretary and anr., (2015) 7 SCC 291***, deprecated long continuance of suspension, present is a fit case where the respondents should forthwith revoke the suspension of the petitioner, because there is no justification in continuing the petitioner under suspension on certain allegations of misconduct, when in the enquiry report, charges have not been found proved against the petitioner.

4. In the case of ***Ajay Kumar Choudhary*** (supra), practice of keeping an employee under suspension without periodical review for indefinite period has been seriously discussed by Their Lordships in the Supreme Court expressing thus –

“11. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental / disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.

12. Protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his Department, has to endure this excruciation even before he is formally charged with some misdemeanour, indiscretion or offence. His torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is, to determine his innocence or iniquity. Much too often this has now become an accompaniment to retirement. Indubitably, the sophist will nimbly counter that our Constitution does not explicitly guarantee either the right to a

speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal ground norms, are inextricable tenets of Common Law Jurisprudence, antedating even the Magna Carta of 1215, which assures that - "We will sell to no man, we will not deny or defer to any man either justice or right." In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial."

5. In view of foregoing, this petition is finally disposed off with a direction to the respondents to revoke the suspension of the petitioner forthwith.

Sd/-
(Manindra Mohan Shrivastava)
Judge