

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.2400 of 2017

- Rajesh Tiwari S/o Late Shri P. N. Tiwari, Aged About 36 Years Electrical Helper, Category - II, Gaytri Project, R/o Bishrampur, Qtr. No. 1053, R. T. I. Colony, District Surajpur (Chhattisgarh).

---- Petitioner

Versus

1. South Eastern Coal Fields Limited Through The Chairman-Cum-Managing Director, Basant Vihar, Seepat Road, Bilaspur (Chhattisgarh).
2. The Chief General Manager, S. E. C. L. Bishrampur Area, District Surajpur (Chhattisgarh).
3. The Sub Area Manager, S. E. C. L. Rehar Gaytri Jainagar Sub Area, Bishrampur Area, District Surajpur (Chhattisgarh).
4. The Personnel Manager, S. E. C. L. Rehar Gaytri Jainagar Sub Area, Bishrampur Area, District Surajpur (Chhattisgarh).
5. The Senior Manager Mining-Cum- Mines Manager, S. E. C. L. Gaytri Undergraound, Mine, Bishrampur Area, District Surajpur (Chhattisgarh).

---- Respondents

For Petitioners	:	Shri A. K. Shukla, Advocate
For Respondent/SECL	:	Shri Vinod Deshmukh, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

17/07/2017

Heard.

2. The petitioner has approached this Court aggrieved by long continuance of suspension for about 6 years and also ventilating grievance due to delay in conclusion of departmental enquiry pending against the petitioner.
3. Learned counsel for the petitioner alleges that the respondent-SECL alone are solely responsible for delay in conclusion of departmental enquiry.

4. Upon instructions, learned counsel for respondent-SECL submits that when the petitioner approached the Conciliation Officer invoking the remedy available to him under the Labour Laws, the Conciliation Officer issued directions to the respondent-SECL not to proceed with the departmental enquiry. That was the main operative reason as to why the departmental enquiry could not be concluded.

5. In a reasoned judicial pronouncement of the Supreme Court in the case of ***Ajay Kumar Choudhary V. Union of India, (2015) 7 SCC 291***, it was held as under :-

“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.”

6. Merely because, the petitioner approached the Regional Labour Commissioner, it cannot be presumed that he had created any hurdle in conclusion of departmental enquiry. If the respondents had any grievance with the order of Regional Labour Commissioner, appropriate remedy is available to them under the law.

7. In my opinion, long continuance of suspension for a period of 6 years cannot be countenanced. The departmental enquiry against the petitioner is still pending consideration. There is no reason as to why the petitioner should be

continued under suspension any further. in view of the judicial pronouncement of the Supreme Court in the case of ***Ajay Kumar Choudhary*** (supra), direction under which have been reproduced herein above, order of revocation of suspension should be passed by the respondents without further loss of time. As far as departmental enquiry is concerned, the respondents shall make all endeavour to conclude the enquiry.

8. With the aforesaid observation, this petition is finally disposed off.

SD/-
(Manindra Mohan Shrivastava)
Judge