

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 139 of 2019**

- Dr. Hitendra Kumar Soni S/o Late Dinbandhu Soni Aged About 36 Years Occupation Assistant Veterinary Surgeon In The O/o Deputy Director, Veterinary Service District Janjgir Champa Chhattisgarh R/o A-10 Ambik Niwas Arya Residency, Police Station Janjgir Chhattisgarh.

---- Appellant**Versus**

1. The State Of Chhattisgarh Through The Chief Secretary Mantralaya New Raipur Chhattisgarh.
2. The Secretary Livestock Development Department New Secretariat, Mahanadi Bhawan Raipur Chhattisgarh.
3. The Director Veterinary Service Directorate Indrawati Bhawan Block No. 3, Ground Floor New Raipur Chhattisgarh.

---- Respondents

For Appellant	:	Shri Sunil Kumar Soni, Advocate
For Respondents/State	:	Ms. Richa Shukla, Deputy Government Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per, Ajay Kumar Tripathi, Chief Justice****21.02.2019**

1. Appellant had filed a writ application before the learned Single Judge seeking a direction upon the Respondents to regularize his period of suspension in terms of Fundamental Rule 54B.
2. The learned Single Judge heard the Petitioner, dismissed the writ application on a finding recorded that the Appellant had been put under suspension on 17.04.2014 in exercise of power under Rule 9(1)(b) of the Chhattisgarh Civil Services (Classification, Control & Appeal) Rules, 1966. The said Rule reads as under :

“9. (1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Governor, by general or special order, may place a Government servant under suspension :-

(a) xxx xxx xxx

- (b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial :

[Provided that a Government servant shall invariably be placed under suspension when a challan for a criminal offence involving corruption or other moral turpitude is filed against him] :

Provided further that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.”

3. Reading of the above quoted provision would show that when a case is instituted against a Government servant in respect of any criminal offence under investigation, inquiry or trial, power is vested in the competent authority to pass order of suspension.
4. There is no dispute that there was an FIR instituted under Section 420, 468, 471 read with Section 34 of the IPC in which the Appellant also stood charge-sheeted and is facing trial. However, the Respondent authorities decided to revoke the order of suspension on 14.01.2016 before the criminal case attained finality on the ground that there are shortage of hands of Veterinary Doctors, therefore, services of the Appellant would be required to be utilized in the interest of administration and State. The said order itself indicates that a decision with regard to the period of suspension will be taken separately.
5. Before the learned Single Judge much was argued on the Fundamental Rule 54B and its applicability to the case of the present Appellant and what would be the effect, as well as how it is to be interpreted.
6. After having given a detailed hearing to the counsel for the Appellant, having perused the impugned order dated 02.01.2019 passed by the learned Single Judge as also the relevant Rules, all these submissions or arguments in our opinion was unwarranted and not required to be gone into.

7. A Simple direction upon Respondent authorities was all that was needed keeping in mind that the order dated 14.01.2016 which was an order of revocation of suspension was not a decision taken in relation to what is to be done with the Petitioner in regard to his service for the period of suspension. Since the said order of 14.01.2016 by which suspension was revoked was not a decision with regard to how the period of suspension is to be treated irrespective of the arguments so made, noted which became the reason for dismissal of the writ application, appeal stands disposed off with a direction upon the competent authority that keeping in mind that the order of revocation of suspension was issued on 14.01.2016 and almost more than 3 years have elapsed, the competent authority will have an obligation to take a decision as to how they would like to treat the period of suspension of the Petitioner.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge