

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 354 of 2019

(Arising out of order dated 28.06.2019 passed by the learned Single Judge in Writ Petition (S) No. 4703 of 2019)

- B.R. Kathane S/o Late Atmaram Kathane Aged About 58 Years Working As Assistant Project Officer (Under Suspension) Office of Jila Panchayat, Balod, Presently Residing at Naya Amapara, Post Mohan Nagar, District Durg Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through Additional Chief Secretary Panchayat And Rural Development Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Naya Raipur Chhattisgarh.
2. Chief Executive Officer Jila Panchayat Balod, District Balod Chhattisgarh.

---- Respondents

For Appellant	:	Shri T. K. Jha, Advocate
For Respondent No.1/State	:	Shri R. S. Baghel, Deputy Advocate General.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

P. R. Ramachandra Menon, Chief Justice

06.08.2019

1. Grievance is with regard to the continued suspension of the Petitioner without any regard to the actual facts and figures and relevant provisions of law. It is stated that, the specific contentions of the Appellant were not properly considered by the learned Single Judge while dismissing the writ petition.
2. The sequence of events is as follows :
 - (i) The Appellant was working as Assistant Project Officer (Class-III) in the office of Jila Panchayat, Balod, who was arrested in connection with Crime No. 62/2018 under Sections 420, 467, 468 and 471 of the Indian

Penal Code and was sent to judicial custody on 21.01.2018. Since the period of judicial custody exceeded 48 hours, he was placed under suspension as per order dated 23.01.2018. It is the case of the Appellant that he was granted bail on 28.05.2018; pursuant to which the Appellant made a representation for reinstatement in service on 29.06.2018. This, according to the Appellant, was not acted upon.

(ii) The learned counsel for the Appellant submits that since the charge-sheet was not submitted even after 10 months, repeated representations were filed on different dates and still, the Appellant was not reinstated and the suspension was not revoked.

(iii) Then, comes another order dated 29.04.2019 (Annexure-P/4) issued by the 1st Respondent, whereby the Appellant has been again suspended in connection with a departmental enquiry, with respect to forgoing of some documents.

(iv) The Appellant contends that there cannot be two suspensions simultaneously and the prolonged suspension is detrimental to the rights and interest of the Appellant and is liable to be interdicted by this Court.

3. Today, when the matter was taken up for hearing in the forenoon, we sought for instructions as to why there were two suspensions in the case of the Petitioner. This was obviously for the reason that, a person, who was already under suspension, was not necessarily to be suspended again, as he was not holding any office for the time being.

4. The learned counsel representing the State submits in the afternoon, on the basis of the instructions received, that the Appellant actually was an employee of Panchayat Department and was sent on deputation to the Jila Panchayat. It was while working on deputation as above, that he came to be suspended by the Jila Panchayat in connection with the crime registered against him and due to judicial custody for more than 48 hours. This order of suspension was never communicated to the State. The Appellant reportedly did some mischief with respect to the submission of a false caste certificate and this made the authorities of State to place him under suspension, pending enquiry, as per Annexure P/1 order issued on 23.01.2018. The learned counsel submits that a charge-sheet has already been served to the Appellant and the enquiry is going on; which will be completed within the shortest possible time, in conformity with the relevant provisions of law.
5. The learned counsel for the Appellant, however, submits that there are two suspensions and that the same has to be re-visited, which has not been done, despite the repeated representations as borne by Annexure-P/5 dated 10.05.2019.
6. The learned counsel representing the State submits that, if the Appellant files a proper representation before the competent authority, who had passed the order of suspension, the same will be considered and appropriate orders will be passed without any delay.
7. The learned counsel for the Appellant submits that Annexure-P/5 dated 10.05.019 is the representation against the order of suspension dated 23.01.2018.

8. In the said circumstances, the 1st Respondent is directed to consider whether there is necessity to place the Appellant under continued suspension pending enquiry and to pass appropriate orders on Annexure-P/1, after affording an opportunity of hearing. It shall be done at the earliest, at any rate within 'six weeks' from the date of receipt of a copy of this judgment. The Appellant is required to place a copy of the judgment, along with a copy of the writ petition before the 1st Respondent for further steps.
9. Writ Petition is disposed of accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge