

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 8368 of 2018

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

---- Petitioner

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 Services, Directorate Indravati Bhawan, Block No. 3, Ground Floor, New Raipur, Chhattisgarh

---Respondents

For petitioner	:	Shri Sunil Kumar Soni, Advocate.
For State	:	Ms. Sunita Jain, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/01/2019

1. The present writ petition has been filed assailing the inaction on the part of the respondents in not regularizing the period of suspension of the petitioner.
2. The relevant facts for adjudication of the petition are that the petitioner was placed under suspension on 17.04.2014 invoking Rule 9 (1) (b) of the Chhattisgarh Civil Services (Classification, Control & Appeal) Rules, 1966 (for short 'Rules, 1966'). The petitioner was prosecuted for the offence punishable under Sections 420, 468, 471

read with 34 of IPC. Pursuant to the charge sheet being filed in the criminal case, the order of suspension was passed. Later on, it appears that suspension order stood revoked on 14.01.2016 as the trial was not concluded and the petitioner was placed under suspension for a prolonged period. The criminal case registered against the petitioner is still pending consideration before the concerned Court. The petitioner now wants an order to be passed under Fundamental Rule 54 B regularizing the period of suspension from 17.04.2014 to 14.01.2016.

3. The ground raised by the petitioner is that Fundamental Rule 54 B does not envisage that the order under FR 54B has to be passed only on the culmination of the criminal case. He submits that it is also not envisaged in the order that the criminal case has to be concluded for passing of an order under FR 54 B or passing an order as to how that intervening period has to be treated.
4. The contention of the petitioner is unacceptable for the simple reason that the petitioner has been placed under suspension invoking Clause 9 (1) (b) of the Rules of 1966. Clause 9(1)(b) clearly states that a person can be placed under suspension where a case against him in respect of a criminal offence is under investigation, enquiry or trial. Undisputedly, the petitioner is facing trial and the trial is in progress. The petitioner's suspension has since been revoked and he has been taken back in employment. As to how the period of suspension from 17.04.2014 to 14.01.2016 has to be treated would be subject to the outcome of the criminal case which is in progress.
5. So far as the contention of the petitioner that the Department was supposed to pass an order under Fundamental Rule 54 B by revoking an order of suspension is concerned, the same is not

acceptable as the petitioner was placed under suspension under Clause 9(1)(b) of the Rules, 1996 on account of the petitioner being involved in a criminal case which is still pending consideration before the concerned court. The revocation order dated 14.01.2016 does not reflect the same to have been passed invoking Fundamental Rule 54 B. The order seems to have been passed on account of the prolongation of the criminal case which by itself means any further decision would be subject to the outcome of the criminal case pending against the petitioner.

6. So far as the Fundamental Rule 54 B is concerned, the said provision would be applicable if the petitioner had not been facing a criminal trial or had the petitioner not been subjected to any disciplinary proceeding after placing him under suspension. Since the petitioner has been placed under suspension on account of his being involved in a criminal case, the provision of Fundamental Rule 54 B at this juncture would not be attracted. The authorities though have revoked the order of suspension, the order of revocation of suspension clearly reflects that how that period would be treated would be separately decided.
7. The judgments which the petitioner intended to rely upon also have been passed under entirely different contextual background and the rule position also has been interpreted in the given factual scenario, it is quite different from the facts of the present case where the petitioner has been placed under suspension on account of his being involved in a criminal case.
8. Given the said facts, this Court does not find any strong case made out by the petitioner for issuance of a writ to the respondents for passing an order under Fundamental Rule 54 B. It is made clear that

the period of suspension shall be decided subject to the outcome of the criminal case which is pending consideration before the concerned court.

9. The writ petition fails and is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**

Khatai