

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 10671 of 2019

Dinesh Kumar Soni S/o Late Shri Ram Ratan Soni Aged About 50 Years
Occupation- (Suspended) Cashier Assistant Grade-Ii, Posted At Office of
Civil Surgeon District Hospital Kabirdham District Kabirdham Chhattisgarh
At Present Headquarter At Community Health Centre, Jhalmala, Block
Bodla District : Kawardha (Kabirdham), Chhattisgarh
--- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary, Department Of Health Mantralaya,
Mahanadi Bhawan Naya Raipur, P.S. Abhanpur District Raipur
Chhattisgarh, District : Raipur, Chhattisgarh
2. Chief Medical and Health Officer, District Kabirdham Office of Chief Medical
And Health Officer Kabirdham District : Kawardha (Kabirdham),
Chhattisgarh
--- **Respondents**

For the Petitioner : Mr. Deepali Pandey, Advocate

For the State/Respondents : Mr. Ravish Verma, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17-12-2019

1. Grievance of the petitioner is that the the petitioner was
suspended on 11.5.2016 and thereafter the charge sheet was
served for the departmental enquiry, which is being conducted. It
is stated that despite several directions by the State Government
that the departmental enquiry be concluded within a reasonable
time, the departmental enquiry in respect of the petitioner is not
being concluded and simultaneously the suspension is also being
protracted.
2. Learned counsel for the petitioner refers to the Judgment
rendered in *(2015) SCC 291 Ajay Kumar Chaudhary v.*

Union of India and would submit that the currency of suspension order should not extend beyond the period of 3 months and the prolonged suspension was against the decision of the Supreme Court. She further contends that if the memorandum of charges/charge sheet is served, the reasoned order must be passed for extension of suspension. It is further contended that the ratio of law laid down in *Ajit Kumary Choudhary (supra)* would be applicable in case of the present petitioner.

3. Learned State Counsel objected to the same and would submit that the charge sheet having been issued, there must have been certain things to continue.
4. A perusal of the documents annexed to the petition would show that there is no dispute about the fact that the petitioner was suspended way back on 11.05.2016 and the Departmental Enquiry is being protracted till date and almost more than 3 years have passed. The State cannot be given unfettered right to continue the Departmental Enquiry for the time immemorial in view of the law laid down in *Ajay Kumar Choudhary v. Union of India (supra)* where the practice of continuing an employee under suspension for long indefinite period was severely deprecated. Para 21 of the said decision would be relevant and quoted below :

“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, 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 serve 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 the 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.

5. In view of the above position of law, it is directed that the decision on the aspect of revocation of suspension be taken by respondent no.2 C.M.O, within a period of 45 days by passing reasoned appropriate order. It is further directed that the Departmental Enquiry against the petitioner shall also be concluded within an outer limit of six months from the date of this order.
6. With the aforesaid direction, the writ petition stands finally disposed of.

Sd/-

**GOUTAM BHADURI
JUDGE**