

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4561 of 2020

1. Deman Singh Chandrakar, S/o Late Shri B.R. Chandrakar, Aged About 56 Years, R/o Kurushetra, Quarter No. 57, Rajnandgaon, Police Station - City Kotwali, Tahsil And District : Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Its Secretary, Home (Police) Department, Mahanadi Bhawan, Mantralaya, Police Station And Post - Rakhi, Atal Nagar, New Raipur, District : Raipur, Chhattisgarh
2. Inspector General of Police (IGP), Office of Inspector General of Police (IGP), 32 Bungalow, Bhilai, District : Durg, Chhattisgarh
3. Superintendent of Police (SP), Office Of Superintendent Of Police (SP), Rajnandgaon, District : Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate along with Ms. Deepika Sannat, Advocate
For State	:	Mr. Mateen Siddiqui, Dy. Adv. General

Hon'ble Shri Justice P. Sam Koshy
Order on Board

03.12.2020

1. The grievance of the petitioner in the present writ petition is the non-consideration of the petitioner; so far as the petitioner being placed under suspension is concerned.

2. The petitioner in the instant case working as a Head Constable. In the course of discharge of duties on account of some alleged misconduct, the petitioner was placed under suspension vide order dated 19.06.2020. The respondents have thereafter issued a charge sheet to the petitioner on 30.07.2020. Now, the grievance of the petitioner is that though more than five months have been passed, the petitioner's service is still placed under suspension. The counsel for the petitioner referring to the judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary (2015) 7 SCC 291** wherein the Supreme Court has held that the employee cannot be kept under suspension for inordinate long duration. The employee who has been placed under suspension, the suspension needs to be reviewed after a period of ninety days by the authorities taking into consideration whether there is any necessity in continuing with the suspension of the petitioner or whether there is any prejudice that is going to cause to the department in case if he is taken back in service by revocation. For ready reference in paragraph no. 21 of the afore said judgment it has been 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 person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contract 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 recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise 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.”

3. The counsel for the petitioner further submits that beyond the issuance of the charge sheet to which the petitioner has submitted his reply, there does not seem to be any further development in the disciplinary proceedings and therefore on this ground also there is no further need for keeping the petitioner under suspension.
4. Learned Dy. Advocate General at this juncture submits that let the writ petition be disposed off directing the respondent no. 2 to reconsider the aspect of suspension of the petitioner keeping in view the judgment of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra).
5. Taking into consideration the submissions made by the counsel appearing on either side and also keeping in view the observation made by the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary in paragraph no. 21 which is reproduced in the preceding paragraphs, this Court is of the opinion that the writ petition at this

juncture can be disposed off directing the respondent no. 3 to reconsider whether there is any necessity in continuing the petitioner under suspension, particularly taking note of the fact that he has already remained under suspension for almost six months now.

6. Let an appropriate decision be taken within a period of thirty days from the date of receipt of copy of this Order. It shall be the duty of the petitioner to apprise the respondent no. 3; so far as the Order passed by this Court is concerned.
7. With the aforesaid direction, the present writ petition stands disposed off.

Sd/-
P. Sam Koshy
JUDGE

Rahul