

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 9969 of 2019**

- Kamlesh Kumar Kosaria S/o Late Ramanand Kosaria, Aged About 60 Years
Occupation - Service, Posted As Assistant Grade - II, Tehsil Office Odagi,
Police Station - Odagi, District - Surajpur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Revenue,
Mahanadi Bhawan, Naya Raipur, Revenue And Civil District - Raipur
Chhattisgarh.
2. Commissioner Sarguja Division, Ambikapur, District - Sarguja Chhattisgarh.
3. Collector And District Election Officer Surajpur, District - Surajpur
Chhattisgarh.
4. Sub - Divisional Officer (Revenue) , Surajpur, District - Surajpur
Chhattisgarh.
5. Sub - Divisional Officer (Revenue), Bhaiyathan, Revenue And Civil District
- Surajpur Chhattisgarh.
6. Tahsildar Odagi, Tehsil - Odagi, Revenue And Civil District - District -
Surajpur Chhattisgarh.
7. Tahsildar Premnagar, Tehsil - Premnagar, Revenue And Civil District -
Surajpur Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Surfaraj Khan, Advocate
For Respondents/ State	:	Ms. Akanksha Jain, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****29/09/2020**

1. Heard.
2. Learned counsel for the petitioner would submit that the petitioner was

suspended by order dated 09.11.2018, and no charge sheet has been served and after completion of 45 days he appeared before the authorities on 24.12.2018 for joining, however the charge sheet has not been served till date and suspension has not been extended by any speaking order. He further submits that from August, 2020 salary is paid but before that the petitioner was not paid the entire salary. He further refers to para 21 of the judgment passed in *Ajay Kumar Choudhary Vs. Union of India through its Secretary and another* {(2015) 7 SCC 291} which reads 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/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet 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 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 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. In the present case, there is nothing on record to show that order for extension of suspension was passed and as pleaded charge sheet has also not served till date. Therefore, in view of the principle laid down in the case of ***Ajay Kumar Choudhary (supra)***, it is directed that the respondents shall decide the representation of the petitioner (Annexure P-3) within a period of 30 days from the date of receipt of a copy of this order.
4. With the aforesaid observation, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge