

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 1726 of 2020**

Smt. Annu Giri W/o Shri Neeraj Giri Aged About 35 Years Post Assistant Grade-3, R/o Housing Board Colony, MIG-37, Janjgir District Janjgir Champa Chhattisgarh

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Law Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur District Raipur Chhattisgarh
2. The District And Session Judge Janjgir Champa Chhattisgarh
3. The Administrative Officer In The Office Of District Session Judge, Janjgir Champa Chhattisgarh

**---- Respondents**


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| For Petitioner | : | Mr. Ravi Maheshwari, Advocate along with Mr. B.L. Sahu, Advocate |
| For State      | : | Mr. Rahul Jha, Govt. Advocate                                    |

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

**23/02/2021**

1. The grievance of the petitioner in the present writ petition seems to be the prolonged suspension of the services of the petitioner.
2. The petitioner was working under the respondent No.2 on the post of Assistant Grade-III. It is said that for some alleged misconduct on the part of the petitioner, she was placed under suspension on 05.02.2019 contemplating departmental enquiry. However, though the petitioner was placed under suspension on 05.02.2019 and even though more than 2 years have lapsed, the petitioner still remains under suspension and the departmental enquiry contemplated against the petitioner also till date has not been concluded, thereby putting the petitioner to great hardship.

3. According to the counsel for the petitioner, on account of certain medical conditions prevailing then, the petitioner could not comply with the order of transfer, which led to the petitioner being placed under suspension and that the said ground was a genuine ground available to the petitioner then and for which she had made a representation also.
4. Be that as it may, admittedly, the petitioner stands placed under suspension for a period of more than 2 years. It is relevant at this juncture to taken note of the observations of the Hon'ble Supreme Court in the case of **“Ajay Kumar Choudhary v. Union of India, through its Secretary & Another” (2015) 7 SCC 291**, wherein paragraph No. 21 the Hon'ble Supreme Court in very specific terms 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/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 concerned person 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 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.”**

5. Given the aforesaid observations by the Hon'ble Supreme Court, this Court is of the opinion that the case of the petitioner also needs to

be reconsidered by the respondent No.2, who has placed the services of the petitioner under suspension on 05.02.2019. Considering the period of suspension and also taking note of the observations of the Hon'ble Supreme Court, this Court is inclined to dispose of the writ petition at this juncture directing the respondent No.2 to consider the case of the petitioner as regards considering the fact, whether the suspension of the petitioner needs to be revoked or not, particularly keeping in view the observations of the Hon'ble Supreme Court as also the fact that the disciplinary proceedings also is not concluded till date. Let an appropriate decision in this regard therefore be taken within a period of 60 days from the date of receipt of the copy of this order.

6. The Registry of this Court is also directed to ensure that the order of this Court is sent to the office of the respondent No.2 at the earliest for a prompt decision.
7. With the aforesaid observations, the present writ petition stands disposed of.

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

Ved