

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4107 of 2021

1. Dr. Alekh Kumar Sahu S/o Kangali Ram Sahu Aged About 51 Years Working As Assistant Professor In Law Department , Pt. Ravishankar Shukla University , Raipur, R/o Pt. Ravishankar Shukla Viswavidyalaya Parisar, Government Quarter, Police Station Saraswati Nagar, Raipur , District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Higher Education Development Department, Mahanadi Bhawan, Mantralaya , Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
2. The Registrar Pt. Ravishankar Shukla University, Raipur District Raipur Chhattisgarh.

--- Respondents

For Petitioner	: Shri Keshav Prasad Gupta, Advocate
For State	: Ms. Sunita Jain, G.A.
For Respondent No. 2	: Shri Neeraj Choubey, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/08/2021

1. The present writ petition has been filed, aggrieved of the order of suspension dated 17.05.2018. The petitioner was placed under suspension on account of his getting implicated in three criminal cases i.e. Crime Nos. 178/2018, 64/2018 & 74/2018 for the offences punishable under Section 420 & 34 of the IPC in all the cases.
2. Learned counsel for the petitioner submits that all the three criminal cases were personal disputes inter-se between the petitioner and some third party on account of certain personal transactions where the cheques issued by the petitioner got dishonoured.

3. It is the contention of the petitioner is that he has not got implicated in the criminal case on account of any misconduct committed in the course of discharge of his duties under the respondents. It is also the contention of the petitioner that two of the cases have already been disposed of after entering into a compromise between the disputing parties and only one case is left which is under consideration.
4. The further contention of the petitioner is that though he was placed under suspension on 17.05.2018, till date there is no disciplinary proceedings initiated against the petitioner by the respondents and as such it is more than three years. Counsel for the petitioner submits that the authorities concerned now should reconsider whether the petitioner should be continued under suspension or whether the order of suspension needs revocation, particularly in the light of the judgment of the Hon'ble Supreme Court in the case of ***Ajay Kumar Choudhary vs. Union of India reported in 2015 (7) SCC 291.***
5. Learned counsel appearing for the University the respondent No. 2 submits that under the provisions of Statue 31 where there is a clause which envisages that in the event of an employee/officer getting implicated in a criminal case, he is liable to be placed under suspension.
6. Be that as it may, it would be relevant at this juncture to consider the judgment of the hon'ble Supreme Court in the case of Ajay Kumar Choudhary (Supra) wherein paragraph 21 of the Hon'ble Supreme Court has 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 recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution.

7. The aforesaid order of the Hon'ble Supreme Court makes it mandatory for all those disciplinary authority and other authorities who have placed an employee under suspension and the period of suspension travels beyond 90 days. In the instant case, the period of suspension has crossed more than three years.
8. What is also striking at this juncture is that there is no allegation of misconduct by the petitioner in the course of his discharging of duty under the respondent No. 2. No charge-sheet & show-cause notice also has been initiated contemplating disciplinary proceedings. One also needs to bear in mind that under the precarious condition that has erupted pursuant to the Covid-19 pandemic, the criminal cases pending before the Court may also take some more time for final conclusion.
9. In the given factual backdrop whether it would be feasible and necessary to continue keeping the petitioner under suspension

without taking work from him and the authorities also should keep in mind that taking the petitioner back in service may also be fruitful both to the institution as also to the students under the respondent No. 2 in the department where the petitioner was working.

10. With the aforesaid observations, the writ petition at this juncture is disposed of directing the respondent No. 2 to reconsider the question of the petitioner's suspension taking into consideration the judgment of the Supreme Court and the intention and object behind this the Hon'ble Supreme Court had. Let an appropriate decision be taken at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.

11. The writ petition accordingly stands disposed of.

Sd/-

(P. Sam Koshy)
Judge

J-