

(2008) 07 JH CK 0069
In the Jharkhand High Court

Ashok Prasad Sah

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-07-2008

Acts Referred:

Citation : (2008) 118 FLR 912 : (2008) 4 JCR 770

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

Narendra Nath Tiwari, J.—The petitioner is aggrieved by the order issued by Memo No. 1073 dated 27.3.08 whereby he has been put under suspension in contemplation of initiation of a departmental proceeding. The grievance of the petitioner is that even after lapse of three months, no proceeding has been initiated and the impugned order has been proved to be baseless. It has been submitted that earlier there was a fact finding enquiry regarding the allegations indicated in the impugned order and in that enquiry the petitioner has not been found at fault. There is no material before the respondents to frame any charge and initiate a departmental proceeding against the petitioner. But the respondents have been unnecessarily keeping the petitioner under suspension only in order to denigrate him and lower down his esteem among his colleagues and the society. It has been submitted that an employee cannot be put under suspension in a routine manner. There must be material to constitute such serious charges of financial misappropriation or other misconduct of serious nature to justify an order of suspension. The impugned order is wholly frivolous, malicious, arbitrary and illegal and is liable to be quashed.

2. A counter affidavit has been filed on behalf of the State-respondents stating, inter alia, that the petitioner has been put under suspension in contemplation of a departmental proceeding. It has been stated that the concerned authorities have considered the relevant facts and documents and have found prima facie material constituting charges of misconduct and for institution of departmental proceeding against the petitioner and on that basis the petitioner has been put

under suspension in contemplation of a departmental proceeding.

3. I have heard learned Counsel for the parties and considered the facts and material on record. On perusal of the impugned order (Annexure-2), it is evident that the petitioner has been put under suspension under Rule 96 of the Jharkhand Service Code in contemplation of a departmental proceeding. The impugned order is dated 27.3.08. But even after lapse of more than three months, no memorandum of charge has been served on the petitioner. There is substance in the submissions of learned Counsel for the petitioner that an employee cannot be kept under suspension for an indefinite period in contemplation of initiation of a departmental proceeding. The respondents have not come with any clear stand in their counter affidavit that if the charges have not been framed till date, when the same will be framed and served on the petitioner. No reason has been assigned for not framing the charges and serving the memorandum of charges even after lapse of several months of the petitioner's suspension on the ground of contemplated departmental proceeding.

4. Considering the said submissions and facts and circumstances of this case, this writ petition is disposed of directing the respondents to take appropriate decision regarding framing of charges, if they intend to initiate a departmental proceeding against the petitioner and serve the memorandum of charges, within a period of two weeks from the date of receipt/production of a copy of this order. The respondents thereafter shall take appropriate steps and proceed with the departmental enquiry to conclude the same within three months thereafter. If the memorandum of charges is not served on the petitioner and/or the departmental proceeding is not concluded within the period prescribed above, the petitioner's suspension shall stand automatically revoked.

5. With the above directions/observations, this writ petition is disposed of.

I.A. No. 1703/2008

In view of the order dated 2.7.08 passed in W.P(S) No. 2110/2008, learned Counsel for the petitioner does not press this interlocutory application.

This interlocutory application is rejected as not pressed.