
(2017) 01 MP CK 0148
In the Madhya Pradesh High Court
Case No : 8618 of 2016

Dr. Smt. Ansuya Paraste

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 16-01-2017

Acts Referred:

[Constitution of India](#), [Article 226](#) -
Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966, Rule 9

Citation : (2017) 01 MP CK 0148

Hon'ble Judges : Sujoy Paul

Bench : Division Bench

Advocate : Parag Chaturvedi, Santosh Yadav

Judgement

1. The challenge in this petition filed under Article 226 of the Constitution is made to the suspension order dated 18-05-2015 (Annexure P/1), which is affirmed in appeal on 18-04-2016 (Annexure P/8).

2. Shri Parag Chaturvedi, learned counsel for the petitioner submits that the suspension order dated 18-05-2015 shows that the petitioner was placed under suspension on the allegations of violation of departmental rules. Thus, the reason for suspension is contemplation of the departmental enquiry. The Charge-sheet was issued after 45 days on 24-08-2015. Thus, as per Rule 9 of M.P.C.S.(C.C.A.) Rules, 1966. suspension stood automatically revoked because Charge-sheet in the departmental enquiry is not issued within 45 days. He submits that pursuant to the directions issued by this Court in WP. No.2425/16 (Annexure P/6), the petitioner preferred an appeal, which was decided on 18-04-2016. The Appellate Authority has erred in not passing appropriate directions to treat the suspension order as revoked after 45 days from the date of issuance of suspension order.

3. Prayer is opposed by Shri Santosh Yadav, learned Panel Lawyer. He submits that the petitioner is not placed under suspension only because of contemplation of departmental enquiry. He was subjected to a criminal investigation by Lokayukta Organization, which ultimately resulted into filing of challan in June

2016. He placed reliance on 2012 (4) MPHT 189 (A.P. Singh Gaharwar vs. State of M.P. & Ors.).

4. No other point is pressed by the parties.

5. I have heard the parties at length and perused the record.

6. A plain reading of suspension order shows that it is alleged that petitioner's associate Sanjay @ Sukhveer was caught red handed by Lokayukta Organization while taking Rs.50,000/- as bribe. The allegations against the petitioner is that the said amount was taken by his associate for him.

7. During the course of arguments, Shri Chaturvedi fairly admitted that the petitioner is an accused in the said criminal case. The bone of contention of the petitioner is that since he was placed under suspension for violation of departmental rules, pendency of criminal investigation etc. cannot be a ground to keep him under suspension. I do not see any merit in the said contention. As per Rule 9 of CCA Rules, an employee can be placed under suspension during the pendency of an enquiry, investigation or trial. The factual backdrop of suspension order shows that it has a criminal angle. The core issue is whether non-mentioning of pendency of investigation/criminal case will vitiate the suspension order ? This point is no more res-integra. In (2000) 10 SCC 162 (Punjab National Bank vs. D.M. Amarnath), the Apex Court opined that if in clear terms it is not mentioned that suspension order is passed because of pendency of departmental enquiry/criminal case, for that reason, suspension order will not be vitiated. Para 7 of the said judgment reads as under:- "7. If it was intended to lay down that the order of suspension must state that disciplinary proceedings are proposed or are pending and otherwise, the order would be bad, we are unable to agree with such a view."

8. The pendency of investigation at the time of issuance of suspension order cannot be doubted. Now, admittedly Challan has been filed. Rule 9 of CCA Rules mandates that whenever Challan is filed against a government servant involving allegations of moral turpitude/corruption, he should "invariably" be placed under suspension. This view is taken by Division Bench of this Court in the case of A.P.Singh Gaharwar (supra). For these cumulatively reasons, I am unable to hold that respondents have committed any error in continuing the suspension of the petitioner beyond 45 days. No fault can be found in the Appellate Order whereby Appellate Authority has declined interference.

9. The petition fails and is hereby dismissed. No cost.