

(2012) 03 AP CK 0053

In the Andhra Pradesh High Court

Case No : W. P. No's. 1158, 1628, 2743 and 3503 of 2012

G. Mallesham

APPELLANT

Vs

Andhra Pradesh Power Generation Corporation Ltd.
 V.
Yadagiri Vs The Andhra Pradesh State Road Transport
Corporation
 B. Karunakar Reddy Vs A. P. S. R. T. C.

 Mangalagiri Nagabhushan Rao Vs The Chief General
Manager (ADM), Andhra Pradesh Power Generation
Corporation Ltd., Vidyuth Soudha, Hyderabad, The CE/
Construction/SDSTPS, Nelatur, S. P. S. R. Nellore District and
The Superintending Engineer E and M Circle/Construction-I,
D. S. T. P. P. Krishnapatnam, SPSR Nellore District

RESPONDENT

Date of Decision : 30-03-2012

Acts Referred:

Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 — Rule 8, 8(1), 8(2)
Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulations, 1963 — Regulation 28
APSE Board Revised Conduct Regulations, 1986 — Regulation 11, 18(1), 18(2)
Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 10(1), 10(2), 10(5), 19(5)
Penal Code, 1860 (IPC) — Section 494, 498A

Citation : (2012) 5 ALT 196 : (2012) 135 FLR 873 : (2013) 2 SCT 544

Hon'ble Judges : Vilas V. Afzulpurkar, J

Bench : Single Bench

Advocate : K. Satyanarayana Rao in W. P. No. 1158 of 2012, Sri V. Narasimha Goud in W. P. No. 1628 of 2012, Sri E. Venkata Reddy in W. P. No. 2743 of 2012 and Sri V. R. Machavaram in W. P. No. 3503 of 2012, for the Appellant; C. Raghu in W. P. No. 1158 of 2012, Sri K. Srinivasa Rao (S.C. For Apsrtc) for the respondent No. 1 and 2 in W. P. No. 1628 of 2012, Sri K. Srinivasarao S.C. For Apsrtc in W. P. No. 2743 of 2012 and Sri C. Raghu S.C. For Apgenco in W. P. No. 3503 of 2012, for the Respondent

Judgement

Vilas V. Afzulpurkar

1. All the writ petitions are filed against the order of suspension as under:

(a) WP.No. 3503 of 2012 questions the order of suspension of the petitioner passed by the Chief General Manager (Administration) - first respondent dated 28.10.2011 on the ground that Cr.No. 49 of 2011 is registered against the petitioner and he was under detention in police custody for 54 hours.

(b) WP.No. 1158 of 2012 questions the order of suspension of the petitioner passed by the second respondent dated 11.05.2011 on the ground that Cr.No. 25 of 2011 is registered against the petitioner and he was under detention in police custody for more than 48 hours.

(c) WP.No. 2743 of 2012 questions the order of suspension of the petitioner passed by the third respondent dated 16.11.2011 on the ground that Cr.No. 421 of 2011 is registered against the petitioner and he was under detention in police custody for five days.

(d) WP.No. 1628 of 2012 challenges the order of suspension of the petitioner dated 18.01.2012 as well as the charge sheet of even date issued by the second respondent on the ground of cash and ticketing irregularities alleged against the petitioner.

In the first three writ petitions, it is primarily contended that the respondent - employer has no jurisdiction to suspend the petitioners on the ground that the crime, which is allegedly registered against each of the petitioners, relates to personal life of each of the petitioners and unconnected with the employment and that in each of these cases the respondent - employer has not applied its mind and has mechanically passed the orders of suspension merely because each of the petitioners was under detention in police custody for some period. So far the fourth writ petition is concerned, it is contended that the check, which resulted in the issuance of order of suspension and charge sheet, had occurred when the petitioner was issuing tickets to passengers and before closure of SR, but without considering the same, for no apparent fault, the petitioner is kept under suspension.

2. All the learned counsel for the petitioners placed reliance upon a judgment of a Division Bench of this Court in *P. Rajender Vs. Union of India* and another, as well as in *W. A. No. 2027 of 2005* dated 20.10.2005 [*Chief Engineer v. S. K. Tajuddin*]. Learned counsel for the petitioners, based on the above decisions, contend that the alleged offence registered against the petitioners relates to events outside the employment and has no nexus between the relationship of employer and employee. Placing reliance upon a decision of the Supreme Court in *P.R. Nayak Vs. Union of India (UOI)*, it is contended that there is no public interest whatsoever and even otherwise the suspension is unduly prolonged without any review and reconsideration and as such, in any case, the impugned orders suffer from non-application of mind. Reliance is also placed upon an unreported judgment of a learned single Judge of this Court in WP.No. 26416 of 2011 dated 21.09.2011 and it is contended that acts and omissions against the petitioners do not involve any moral turpitude and keeping the petitioners under

suspension does not any way help the organization, particularly, when no disciplinary proceedings are initiated. Reliance is also placed upon a judgment of a Division Bench of the High Court of Rajasthan in *Ashok Gaur v. State of Rajasthan* 1987 (5) SLR 547 for the proposition that even in cases where employee has remained in custody exceeding 48 hours for the alleged criminal offence, it is not obligatory on the part of the appointing authority to put the officer under suspension, but he has to apply his mind and exercise discretion, as there is a stigma attached to an order of punishment. A judgment of a learned single Judge of this Court in *P. Lingamurthy v. Government of Andhra Pradesh* 1998 (6) SLR 349 is also relied upon. However, the said case deals with prolonged suspension of more than 31 months, which was held to be unjustified on the facts and circumstances of that case. Another decision of a learned single Judge of the High Court of Allahabad (as His Lordship then was) in *Jagjeet Singh v. State of UP* 1996 (1) UPLBEC 405 is relied upon, which deals with a case of deemed suspension and Rule 49(2)(A) of the Civil Services (Classification, Control and Appeal) rules, 1930 was held to be arbitrary. Similarly, another judgment of the High Court of Allahabad in *Dr. Dalbir Singh v. State of U.P.* 2002 (3) SLR 39 is relied upon wherein the order of suspension passed a decade ago and continued without holding an enquiry was held illegal.

3. In support of WP.No. 2743 of 2012 (item 3 herein) wherein petitioner is a RTC Constable, it is alleged that while on duty at Tyre Retreading Shop (TRS), Warangal, the petitioner absconded from duty from 05.20 PM to 06.00 PM and he was arrested for attempting to murder his wife, during the aforesaid period, when he was unauthorisedly absent from his duty. Petitioner was, therefore, arrested on the same day at 07.15 PM. Learned counsel for the petitioner has also relied upon the decisions, referred to above, to contend that the alleged criminal offence relates to private life of the petitioner.

4. In WP.No. 1628 of 2012 (item 4 herein), learned counsel for the petitioner states that there was no procedural lapse, as petitioner had not completed issuance of tickets and as such, under Regulation 28 (vi) of the Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulations, 1963 (for short "APSRTC Regulations 1963"), it cannot be said that the petitioner has failed to issue valid passenger tickets and as such, the suspension is wholly unjustified. Reliance is placed upon a judgment of a learned single Judge of this Court in 30904 of 2011 dated 15.02.2012 to contend that when, prima facie, it is not a case of misappropriation, it is not desirable to suspend the employee, as the allegations are not serious in nature. Hence, while leaving the Department to complete the enquiry, reinstatement of the petitioner was ordered. Reliance is also placed upon a decision of the Supreme Court in *State of Orissa v. Bimal Kumar Mohanty* AIR 1995 SC 2296, particularly para 12 thereof, which states that the appointing authority or disciplinary authority has to take into consideration the gravity of the charge and decide whether it is expedient to keep the employee under suspension pending enquiry. An order of suspension is not an administrative routine or an automatic order. It is, therefore, contended

that under clause 18(1)(a) of the Andhra Pradesh State Road Transport Corporation Employees (Classification, Control and Appeal) Regulations, 1967 for short "APSRTC Regulations 1967"), the suspension can only be made pending investigation or enquiry into grave charges where such suspension is necessary in public interest.

5. Mr. K. Srinivas Rao, learned standing counsel for APSRTC and Mr. C. Raghu, learned standing counsel for APGENCO, respectively have placed reliance upon the service regulations of respective organizations and have also relied upon the judgment of the Supreme Court in BIMAL KUMAR MOHANTY's case (7 supra). They have also relied upon another decision of the Supreme Court in Union of India (UOI) Vs. Rajiv Kumar, as well as a decision of a learned single Judge of this Court in T.R. Vinod Singh Vs. A.P. State Electricity Board, Hyderabad and others, A Division Bench judgment of this Court in The Deputy General of Police, Kurnool Range and Others Vs. R.S. Madhubabu, is also relied upon wherein suspension under Rule 8 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 was upheld.

6. In order to appreciate the rival contentions, it would be appropriate to notice the relevant service rules. So far as APGENCO, which is respondent in first two writ petitions, is concerned, the APSEB Revised (Conduct) Regulations undisputedly apply as they are adopted by APGENCO. Regulation 11 deals with suspension and clauses (a) and (b) thereof are relevant, which are extracted hereunder:

11. Suspension:

(a) A member of a class of service may be placed under suspension from service, where: -

(i) an enquiry into grave charges against him is contemplated, or is pending, or

(ii) a complaint against him of any criminal offence is under investigation or trial and if such suspension is necessary in the Board's interest.

(b) An employee who is detained in custody whether on a criminal charge or otherwise, for a period longer than forty-eight hours shall be deemed to have been suspended under this regulation.

7. APSRTC Regulations, 1963 provide under Regulation 28 various acts and omissions, which shall be treated as misconduct. Clause (vi) (a), clause (ix)(a) and (b) and clause (xv) may be noticed as under:

28. General Provisions:

...

...

(vi) a) "Failure on the part of the Conductor/Booking Clerk to issue valid passengers/luggage ticket, in accordance with the order passed by the

Corporation or any other authority under the Corporation, from time to time, before starting or allowing a bus to be started from the point, where such passenger/luggage, boarded or loaded as the case may be in respect of mofussil services, and before passing a Ticket Issue Completion Point, fixed from time to time in respect of City/Town Services.

...

(ix) a) gross negligence resulting in serious loss to the Corporation or inconvenience to the public or both;

b) neglect of duty resulting in or likely to result in danger to the lives of employees or of their persons or both;

...

(xv) any act involving moral turpitude which is punishable under the provisions of the Indian Penal Code.

Similarly, suspension is dealt with under Regulation 18 of the APSRTC Regulations 1967, the relevant portion is as follows:

18. Suspension:

(1) The appointing authority or any authority to which it is subordinate or any other authority authorised by the Corporation in that behalf by a Resolution may, subject to such conditions and limitation, if any, as may be specified, place an employee under suspension from service:

(a) Pending investigation or enquiry into grave charges, where such suspension is necessary in the public interest;

(b) Where any criminal offence is under investigation or trial;

Provided that where the order of suspension is made by an authority lower than the appointing authority, such authority, shall forthwith report to the appointing authority the circumstance in which the order of suspension was made.

(2) An employee who is detained in custody, whether on a criminal charge or otherwise, for period exceeding forty eight hours shall be deemed to have been suspended with effect from the date of detention, by an order of the appointing authority, and shall remain under suspension until further orders.

8. Though the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 are not attracted in these matter, for the purpose of reference, Rule 8(1)(c) and 8(2)(a) may be noticed as under:

Rule 8. Suspension :- (1) A member of a Service may be placed under suspension from service -

(a)...

(b)...

(c) where a case against him in respect of any criminal offence is under investigation, inquiry or trial.

(2) A Government servant shall be deemed to have been placed under suspension by an order of the authority competent to place him under suspension -

(a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise for a period exceeding forty-eight hours.

9. Rules 10(1)(b) and 10(2)(a) of the Central Civil Services (Classification, Control and Appeal) Rules, would also be relevant to be noticed, as extracted, for the sake of convenience, as under:

10. Suspension:

(1) The Appointing Authority or any authority to which it is subordinate or the Disciplinary Authority or any other authority empowered in that behalf by the President, by general or special order, may place a Government servant under suspension -

(a)...

(aa)...

(b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial.

(2) A Government servant shall be deemed to have been placed under suspension by an order of Appointing Authority

(a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours.

10. It would be noticed from Regulation 11 of the APSEB Regulations that Regulations 11(a)(ii) and 11(b) operate in different spheres. Regulation 11(a)(ii) is attracted when a criminal offence against the employee is under investigation or trial and where suspension is necessary in the Board's interest. In other words, when Regulation 11(a)(ii) is invoked; pendency of the criminal offence as well as consideration of necessity of suspension in Board's interest, both become relevant. The proviso thereunder enables the Board to review such suspension after six months. On the other hand, Regulation 11(b) is invoked merely, on the basis of detention of an employee under police/judicial custody whether on a criminal charge or otherwise for a period longer than forty-eight hours. The suspension, in such cases, is deemed and automatic and it would be noticed that the satisfaction of the appointing authority that suspension is necessary in Board's interest as required under Regulation 11(a)(ii) is not attracted. So far

the decisions relied upon by the learned counsel for the petitioners are concerned, they are discussed in the paragraphs below.

11. The impugned orders in the first two writ petitions, referred to above, specifically refer to Regulation 11(b), referred to above and have been issued on account of pendency of criminal offence against the petitioners and their detention in custody for over forty-eight hours. On a plain reading of Regulation 11(b), therefore, the suspension being deemed and automatic the contention of the learned counsel for the petitioners that the respondents must apply their mind and consider as to where the criminal offence involves moral turpitude or not or that criminal offence is outside the employment, are all irrelevant and do not arise. The impugned suspension in the first two writ petitions being referable to Regulation 11(b) applies automatically as soon as a criminal offence is registered against an employee and he is held under detention for over four-eight hours. The contentions of the petitioners challenging the said impugned orders, on the grounds aforesaid, are, therefore, clearly misconceived.

12. In WP.No. 2743 of 2012, petitioner is an RTC Constable and is a member of disciplined force, but was found absconding from his duty and allegedly involved in a criminal offence of attempting to murder his wife and was detained for over forty-eight hours in the police custody. Regulation 18(2) of the APSRTC Regulations 1967 provides that where the employee is detained under custody whether on a criminal charge or otherwise for a period over forty-eight hours is deemed to be under suspension with effect from the date of detention. Even in these regulations, if suspension is made pending investigation or enquiry into the grave charges, Regulation 18(1)(a) provides that the appointing authority may place an employee under suspension if such suspension is necessary in public interest. However, under sub-clause (2), referred to above, the suspension is deemed and automatic when employee is detained in custody for more than forty-eight hours. Thus, the impugned order in the present writ petition, though it refers to Regulation 18(1), is, in fact, referable to Regulation 18(2) of the Regulations and thereby, similar contentions of the learned counsel for the petitioner, as referred to above, cannot be sustained, as the suspension is automatic.

13. So far as WP.No. 1628 of 2012 is concerned, the alleged violation of Regulation 28(vi) of the APSRTC Regulations, 1963 is a matter for enquiry and at this stage, merely on the basis of spot statements of petitioner and the passengers, as produced by the learned counsel for the petitioner, cannot be appreciated. The competent authority has issued the impugned suspension together with charge memo and the same being within his power and jurisdiction under the Regulations, referred to above, it cannot be said that the said suspension is without jurisdiction.

14. I shall now consider the decisions cited on behalf of the petitioners. The decision in P. RAJENDER's case (1 supra) is a case arising under Rule 10(1)(b) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 where

the petitioner therein was placed under suspension, as a criminal case being Cr.No. 1583 of 1998 under Sections 494 and 498A of the Indian Penal Code was registered and pending against the petitioner in the Court Judicial First Class Magistrate, East & North, Kothapet, Ranga Reddy District. Under Rule 10(1)(b) the appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the President, by general or special order, may place the Government servant under suspension where a case against him is in respect of any criminal offence is under investigation, enquiry or trial. On the facts of that case, it was noticed by the Division Bench that the order of suspension was passed seven months after charge sheet was filed but the order of suspension was found to be the result of total non-application of mind, as the filing of the said charge sheet was not even noticed. The Bench also found that in spite of directions of the Central Administrative Tribunal to consider the necessity of continuation of petitioner's suspension, impugned order, continuing petitioner's suspension was passed, showing non-application of mind by authorities. In the circumstances, the Division Bench held that the order did not show any reason for need to continue the order of suspension.

15. The regulations with which we are concerned in these matters and which are extracted above are clearly different from the regulations with which the Division Bench was concerned in the aforesaid decision. As evidently, the case before the Division Bench was not a case of continued suspension on account of being in custody for over forty-eight hours, as is the subject matter of the first three writ petitions herein.

16. The decision of the Division Bench in S. K. Tajuddin's case arose out of a writ petition, which was allowed by the learned single Judge treating the suspension as one under Regulation 11(a) (ii) of the APSEB (Discipline and Appeal) Regulations. The contentions of the petitioners that the criminal offence relates to an event outside their employment is concerned, the petitioners have placed reliance upon the decision of the learned single Judge of this Court in WP.No. 10583 Of 1999 dated 18.07.2005 [S.K. Tajuddin v. Chief Engineer], which was affirmed by the Division Bench, as above. The facts of that case show that the petitioner was placed under suspension by proceedings dated 17.02.1999 and as on the date of judgment in the writ petition i.e. 18.07.2005, it was noticed that the suspension continued and it was observed by the learned single Judge that "when crime arose outside employment, it is not desirable that employee should be kept under suspension for a long period... In the circumstances, I am of the opinion that keeping petitioner under suspension for a long time by the respondents is unwarranted.

17. It would, thus, be noticed that the validity of order of suspension as such was not the issue on which the writ petition was decided but the continuation of suspension for long time was found unwarranted and the same view was affirmed by the Division Bench. The contention that the crime reported was

outside the employment was really not the ratio of the decision but the observations to that effect are only obiter. The judgments of the Supreme Court, referred to hereinafter, clearly uphold the power of employer to order suspension of an employee when he is found involved in criminal charge and detained in custody for forty-eight hours. As has been noticed by the Supreme Court in RAJIV KUMAR'S case (8 supra), referred to in the following paragraphs, in fact, such suspension is automatic. The reliance by the petitioners on S.K. Tajuddin's case is, therefore, clearly misconceived.

18. The Division Bench judgment of the Rajasthan High Court In Ashok Gaur's case (3 supra) refers to Rule 13(1) of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1980 wherein it was held that it is not obligatory for the competent authority to place the employee under suspension and by the time the order of suspension was passed, the employee was already on bail. Thus, the order of suspension was not passed immediately after registration of FIR. In the circumstances, it was held that it is the duty of the appointing authority to pass an order of suspension to see whether the circumstances so warrant and there must be application of mind in every case. For the reasons stated above, this decision also would not apply to the present case, as suspension under Regulation 11(b) is automatic.

19. The decision in P. LINGAMURTHY's case (4 supra) is really not a decision on the validity of the suspension order but is a decision over prolonged suspension of more than 31 months where this Court had interfered. JAGJEET SINGH's case (5 supra) also does not assist the petitioners, as the rule of deemed suspension itself was held arbitrary but the relevant regulation in the present case is not challenged. Dr. Dalbir Singh's case (6 supra) also deals with prolonged suspension passed over a decade ago and is not applicable.

20. Para 12 of the decision of the Supreme Court in Bimal Kumar Mohanty's case (7 supra) supports the case of the petitioner but the same judgment is also relied upon by the learned counsel for the respondents where it is held that each case must be considered depending upon the nature of allegation, gravity of the situation and the indelible impression it creates on the service and no general law could be laid down, as suspension is not a punishment. On facts, the petitioner therein was subjected to disciplinary case on the allegation of serious financial irregularities and kept under suspension pending enquiry. On the facts of the present case, the aforesaid decision also is distinguishable.

21. The Supreme Court in Rajiv Kumar's case (8 supra) considered a similar matter where an employee was arrested and detained in police custody for more than 48 hours. The following portion from para 11 and paras 23 and 26 are extracted hereunder:

(11). Rule 10(2) is a deemed provision and creates a legal fiction. A bare reading of the provision shows that an actual order is not required to be passed. That is deemed to have been passed by operation of the legal fiction. It has as much

efficacy, force and operation as an order otherwise specifically passed under other provisions. It does not speak of any period of its effectiveness...Obviously, the only order which is even initially deemed to have been made under Rule 10 is one contemplated under sub-rule (2). The said provision under Rule 10(5)(a) makes it crystal clear that the order continues to remain in force until it is modified or revoked by an authority competent to do so while Rule 10(5)(c) empowers the competent authority to modify or revoke also. No exception is made relating to an order under Rules 10(2) and 10(5)(a). On the contrary, specifically it encompasses an order under Rule 10(2). If the order deemed to have been made under Rule 10(2) is to lose effectiveness automatically after the period of detention envisaged comes to an end, there would be no scope for the same being modified as contended by the respondents and there was no need to make such provisions as are engrafted in Rule 19(5)(a) and (c) and instead an equally deeming provision to bring an end to the duration of the deemed order would by itself suffice for the purpose.

... (23) The inevitable conclusion therefore is that the order in terms of Rule 10(2) is not restricted in its point of duration of efficacy to the period of actual detention only. It continues to be operative unless modified or revoked under sub-rule 5(c), as provided under sub-rule 5(a).

... (26) Another plea raised relates to a suspension for a very long period. It is submitted that the same renders the suspension invalid. The plea is clearly untenable. The period of suspension should not be unnecessarily prolonged but if plausible reasons exist and the authorities feel that the suspension needs to be continued, merely because it is for a long period that does not invalidate the suspension.

22. The judgment of the learned single Judge of this Court in T.R. VINOD SINGH's case (9 supra) also is a case dealing with Regulation 11(b). Paras 4, 5 and 6 of the said judgment are extracted hereunder for convenience.

4. The first contention of the learned counsel for the petitioner, I am afraid, is well founded. Regulation 11(b) reads thus:

"an employee who is detained in Police custody whether on criminal charge or otherwise for a period longer than 48 hours shall be deemed to have been suspended under these regulations."

5. A legal fiction is introduced in Regulation 11(b). The language employed in the above regulation is plain, clear and precise and unambiguous and it does not admit more than one meaning. The only meaning that can be culled out from the provision is that when an employee is detained in Police custody whether on criminal charge or otherwise for a period longer than 48 hours, he shall be deemed to have been under suspension under Regulation 11(b). In other words, by virtue of Regulation 11(b), an employee who is in Police custody for a period longer than 48 hours should be deemed to have been kept under suspension. If that is the effect of legal fiction introduced in Regulation 11(b), that legal fiction

should subsist even after the release of the employee on bail unless the employer makes an appropriate order after the release of the employee on bail permitting the employee to resume duty. Therefore, the contention of the learned counsel for the petitioner that after the release of the petitioner on bail on 26.12.1998, the employer, as a matter of course and legal obligation, ought to have permitted the petitioner to resume duty is untenable.

6. Although I find some force in the second contention of the learned counsel for the petitioner, but having regard to the subsequent developments, I do not think it appropriate for the Court to interfere with the suspension order at the fag end of the departmental enquiry. Since the enquiry report is already submitted to the disciplinary authority, I think that ends of justice would be met by directing the disciplinary authority to consider the findings recorded by the Inquiring Authority and pass appropriate final order within a time-frame, in accordance with law.

23. In Deputy Inspector General of Police's case (10 supra) the Division Bench vide para 11 rejected the contention that suspension would amount to punishment and the suspension was found justified under Rule 8 of the APCS (CCA) Rules.

24. The Supreme Court in State Bank of India and Another Vs. Rattan Singh, held at para 6 as under:

6. Therefore, the suspension of the respondent by the order of 23-7-1993 can be considered as both under para 521(10)(b) as also under para 521(2)(a), since at the relevant time, both a departmental enquiry as well as criminal prosecution were under contemplation. Thereafter, in view of the pendency of the criminal prosecution, the appellant did not initiate a departmental enquiry. The order of suspension, therefore, cannot be faulted looking to the provisions set out above. When a criminal prosecution on serious charges is pending against the respondent, the Bank is entitled to suspend him. In this connection, our attention has been drawn to a decision of this Court in the case of Allahabad Bank and Another Vs. Deepak Kumar Bhola, where this Court said that where CBI had conducted an investigation resulting in the filing of a charge-sheet, this was sufficient for the appellant to conclude that recourse had to be taken to clause 19.3 to suspend the respondent. The mere fact of 10 years having elapsed was no ground to allow him to come back to a sensitive post unless he was exonerated. IN the case of Punjab National Bank and Others Vs. Jagdish Singh, (a decision to which one of us was a party), it was held that when a bank employee is being prosecuted, the bank has the power to suspend the employee under the Bipartite Settlement clauses 19.3(a) and 19.12(b). Clause 19.3(a) is similar to para 521(2)(a). The Division Bench of the High Court, therefore, was not right in setting aside the order of suspension.

The challenge to the impugned orders of suspension in each of these cases, accordingly, fails. However, the respondents in each of these cases have a duty

to look into and review the orders of suspension periodically, as provided under the Regulations inasmuch as an employee cannot be continued under suspension indefinitely.

While, the Mandamus sought for is declined, the writ petitions are disposed of directing the respondents to review suspension of each of the petitioners in accordance with the regulations and wherever the disciplinary enquiry is contemplated, the same shall be initiated and complete expeditiously without any unnecessary loss of time. There shall be no order as to costs.