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**(2009) 04 CHH CK 0011**  
**In the Chhattisgarh High Court**

Ganesh Prasad Verma

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

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**Date of Decision :** 22-04-2009

**Acts Referred:**

**Citation :** (2010) 125 FLR 476 : (2009) 3 MPHT 58

**Hon'ble Judges :** Satish K. Agnihotri, J

**Bench :** Division Bench

**Final Decision :** Dismissed

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## Judgement

Satish K. Agnihotri, J.—Challenge in this petition is to the order dated 26-3-2009 (Annexure P-1) whereby the petitioner has been placed under suspension on the ground that he has hurled filthy language before the Block Education Officer, Simga, in inebriated condition.

2. Learned Counsel appearing for the petitioner mainly challenges the impugned order of suspension and issue of charge-sheet together on the ground that the petitioner was on deputation and, as such, the parent department cannot place the petitioner on suspension and thereafter at the time of suspension the petitioner cannot be attached to any other place except where he was working.

3. Rule 9 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short "the Rules, 1966") provides for suspensions. Rule 9 (1) of the Rules, 1966 clearly provides as under:

9. (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 Governor by general or special order, may place a Government servant under suspension:

(a) where a disciplinary proceeding against him is contemplated or is pending; or

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

Provided that a Government servant shall invariably be placed under suspension when a challan for a criminal offence involving corruption; or other moral turpitude is filed against him:

Provided further 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 circumstances in which the order was made.

4. Rule 20 of the Rules, 1966 dealing with the provisions regarding officers lent to the Union or any other State, Government on any subordinate or local authority, etc. It provides for suspension by the Borrowing Authority also with a rider that the same shall be informed to the authority forthwith, which lend the services of the Government servant. Rule 20(1) of the Rules, 1966 reads as under:

20. Provisions regarding officers lent to the Union or any other State Government on any subordinate or local authority, etc.- (1) Where the services of a Government servant are lent by one department to another department or to the Union Government or to any other State Government or any authority subordinate thereto or to a local or other authority (hereinafter in this rule referred to as "the Borrowing Authority"), the Borrowing Authority shall have the powers of the Appointing Authority for the purpose of placing such Government servant under suspension and of the Disciplinary Authority for the purpose of conducting a disciplinary proceeding against him:

Provided that the Borrowing Authority shall forthwith inform the authority which lend the services of the Government servant (hereinafter in this rule referred to as "the Lending Authority") of the circumstances leading to the order of suspension of such Government servant or the commencement of the disciplinary proceeding as the case may be:

Provided further 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 circumstances in which the order was made.

5. On perusal of the both the provisions stated above, it is clear that the Appointing Authority is the Appropriate Authority to place an employee under suspension in certain circumstances. In case of deputation, the Borrowing Authority may also place an employee under suspension provided the same is informed forthwith to the authority, which had lent the services of the Government servant. Thus, the impugned order passed by the Appointing Authority cannot be faulted with.

6. As far as the placement of the petitioner after passing of the impugned suspension order is concerned, there is no provision which provides that the employee placed under suspension may be attached only at the place where he was working and, as such, there is no embargo on the placement of such employee at any other place.

7. Be that as it may, once the charge-sheet has been issued, this Court should, refrain from interfering with the charge-sheet or an enquiry. If the petitioner is innocent, the petitioner may file his reply and prove his innocence in the Departmental Enquiry. So far as suspension is concerned, suspension of an employee is governed under the provisions of Rule 9 of the Rules, 1966, wherein it is clearly provided that an employee on charges of irregularities can be placed under suspension when enquiry is in contemplation or pending consideration. This is a case where charge-sheet has been issued along with suspension order.

8. It is well settled principle of law that the suspension is temporary and it does not involve punishment with civil consequences. Suspension means a temporary deprivation of the functions not amounting to any reduction of rank or status. The employee under suspension continues to be a Government servant, he is not permitted to work keeping in view pendency of Departmental Enquiry to avoid undue influence in the proceedings of Departmental Enquiry and likely tampering with on records.

9. The Hon"ble Supreme Court in P.L. Shah Vs. Union of India (UOI) and Another, , held that "an order of suspension is not an order imposing punishment on a person found to be guilty. It is an order made against him before he is found guilty to ensure smooth disposal of the proceedings initiated against him".

10. The Supreme Court in Union of India and others Vs. E.G. Nambudiri, , observed that "if the statutory rules require communication of reasons, the same must be communicated but in the absence of any such provision absence of communication of reasons do not affect the validity of the order".

11. At this stage it is not necessary to go into the charges levelled against the petitioner because it may prejudice the case of the parties, wherein the respondents have initiated Departmental Enquiry.

12. In view of the foregoing, the suspension order cannot be faulted with. The writ petition is dismissed accordingly.