

**(2008) 08 PAT CK 0126**  
**In the Patna High Court**  
**Case No : LPA No. 455 of 2008**

Jang Bahadur Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

**Date of Decision :** 06-08-2008

**Acts Referred:**

Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 — Rule 9(7)

**Citation :** (2008) 56 BLJR 2781 : (2008) 4 PLJR 307

**Hon'ble Judges :** R.M. Lodha, C.J; Kishore K. Mandal, J

**Bench :** Division Bench

**Advocate :** V.K. Verma and Surendra Kumar, for the Appellant; P.K. Verma, AAG - XI and S.R. Sharan, JC to AAG - XI for respondent Nos. 1 to 8, for the Respondent

**Final Decision :** Dismissed

## Judgement

1. The appeal is from the order dated 23rd April, 2008, whereby the writ petition filed by the present appellant for quashing the suspension dated 7th June, 2007 has been dismissed.

2. That the order of suspension came to be issued on 7th June, 2007 is not in dispute. That on 27th September, 2007, the appellant (petitioner) was served with the memo of charges is also not in dispute. That the memo of charges was not served within three months from the date of issue of suspension order is an admitted position.

3. The question that falls for our determination is: whether on expiry of three months from the date of issue of suspension order, in the absence of the charge-sheet being served upon the appellant, the order of suspension dated 7th June, 2007 automatically came to an end ?

4. Rule 9(7) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 reads thus:

(7) Charge-sheet must be framed within three months from the date of issue of suspension order failing which on expiry of three months, the suspension order shall be revoked unless the authority, which issued the suspension order, passes the order renewing the suspension alongwith reasons to be recorded in writing for the delay in framing of charge-sheet for a further period of four months;

Provided that it after the expiry of extended period of four months the suspension order shall stand revoked if the charge-sheet is not framed.

(emphasis supplied)

5. A plain reading of the aforesaid rule would clearly show that there is no automatic revocation of the suspension order on expiry of three months from the date of issue of suspension order, even if the charge-sheet has not been served within that time. This becomes apparent if the provision is closely looked. What rule requires is that charge-sheet must be framed within three months from the date of issuance of suspension order. If it is not done then the authority shall revoke the suspension order unless he passes an order renewing suspension for the reasons to be recorded in writing. If within four months therefrom the charge-sheet is still not framed, then, order of suspension stands revoked automatically. The expression used, "the suspension order shall be revoked" in contra distinction to the expression used in the proviso appended thereto, "the suspension order shall stand revoked" reflects the rule makers intention. By the use of expression, "the suspension order shall be revoked", the rule makers have made a provision that in case the charge-sheet is not served within three months from the date of issue of suspension order and the suspension order is not renewed the authority shall pass an order revoking the suspension order. In other words, the provision contemplates issuance of an order by the authority revoking the order of suspension on expiry of three months where charge-sheet is not served within three months from the date of issue of suspension order. It is altogether different where within four months of the expiry of three months the charge-sheet is still not served. Then the effect is that the suspension order by operation of law stands revoked. In that situation, it is not necessary that the authority must pass an order revoking suspension order but by operation of law the order of suspension stands revoked. The use of two different expressions in the same provision is indicative of the intention of the rule makers.

6. In what we have discussed above, we find it difficult to concur with the view of the single judge in the case of Umesh Kumar Rai v. The State of Bihar and Ors. decided on 30th January, 2008.

7. In the present case, the order of suspension has not been revoked by the authority. It is an admitted fact that within twenty days of expiry of three months, charge-sheet has been served upon the petitioner. Obviously, in this view of the matter, the suspension order does not stand automatically revoked. Merely because there has not been any specific order of renewal of suspension, it does not affect the validity of suspension order. Once the charge-sheet has been

framed within four months from the expiry of three months of the date of issue of suspension order, by not specifically renewing the order of suspension while framing charge-sheet, at best it can be said that some irregularity has been committed by the authority but that does not render the order of suspension illegal.

8. The object of Rule 9(7) is to ensure that the delinquent having suffered suspension does not have to wait indefinitely for framing the charge-sheet.

9. In the present case, as noticed above, on 110th day the charge-sheet has been served upon the delinquent which does not render the order of suspension bad in law automatically.

10. The appeal, accordingly, has no merit. It is dismissed in limine. However, looking to the facts and circumstances of the case, we observe that the disciplinary authority must conclude the disciplinary proceeding as expeditiously as possible and in no case later than six months from the date of production of the order of this Court, provided the delinquent cooperates in expeditious disposal of the disciplinary proceeding.