
(2011) 01 CHH CK 0029
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 5027 of 2010

Prakash Singh Chandel

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 14-01-2011

Acts Referred:

Citation : (2011) 4 MPHT 47

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : Vinay Pandey, for the Appellant; A.V. Sridhar, Panel Lawyer for the State and Mr. Akhilesh Kumar, Advocate for the Respondent No. 3, for the Respondent

Final Decision : Allowed

Judgement

Satish K. Agnihotri, J.—The petitioner aggrieved by the order dated 25-8-2010 (Annexure P-1) whereby the petitioner has been placed under suspension on the ground that the petitioner has not complied with the transfer order. Be that as it may, without going into the facts of the case, where there is compliance of the order or not, the question involved in the case as to whether suspension can be ordered by way of punishment under provisions of Rule 9 (1) of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short "the Rules, 1966"). Indisputably, there is no other provision except Rule 9 of the Rule, 1966, which provides for placing an employee under suspension. There are only two conditions where an employee can be placed under suspension. Rule 9 (1) of the Rule, 1966 provides for suspension in following cases:--

- (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.

2. On query, whether a criminal case is pending or any criminal offence has been filed or any other Departmental Enquiry was contemplated or pending

consideration, Shri Sridhar, learned Panel Lawyer appearing for the State submits that no enquiry was contemplated against the petitioner.

3. Sub-rule (2-a) of the Rule 9 of the Rules, 1966 prescribes for time limit for placing under suspension after the order of suspension is passed. If the order is passed by other than the State Government, employee cannot be placed under suspension for more than 45 days and if it is passed by the State Government the period is 90 days.

4. Sub-rules (2-a) and (2-b) of Rule 9 of the Rules, 1966 read as under:--

(2-a) Where a Government servant is placed under suspension under clause (a) of sub-rule (1), the order of suspension shall contain the reasons for making such order and where it is proposed to hold an enquiry against such Government servant under Rule 14, a copy of the articles of charges, the statement of imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained shall be issued or caused to be issued by the Disciplinary Authority to such Government servant as required by sub-rule (4) of Rule 14, within a period of 45 days from the date of order of suspension:

Provided that where the Disciplinary Authority is the State Government, the copy of charges and other documents mentioned above shall be issued or caused to be issued to such Government servant within a period of 90 days from the date of order of suspension.

(2-b) Where the Disciplinary Authority fails to issue to the Government servant, a copy of the charges and other documents referred to in sub-rule (2-a) within the period of 45 days, the Disciplinary Authority shall, before expiry of the said period, obtain orders in writing of the State Government for extension of the said period of suspension:

Provided that the period of suspension shall in no case be enhanced beyond a period of 90 days from the date of the order of suspension.

5. The impugned order was passed on 25-8-2010 thereafter, no enquiry or Department Enquiry has been initiated till date for more than 120 days. Even, if there was a contemplation of enquiry that cannot be relied upon for sustaining the suspension order after 45 days or 90 days, as the case may be.

6. In view of foregoing, the impugned suspension order dated 25-8-2010 (Annexure P-1) placing the petitioner under suspension without any Departmental Enquiry or without being criminal offence against the petitioner, is quashed. However, respondent authorities may take appropriate action, if so advised in accordance with law.

7. Accordingly, the writ petition is allowed to the above extent. No order as to costs.