

GAHC040011422025

2026:GAU-AP:201



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/311/2025

Subrata Sarkar

Son of Late Suryya Kr Sarkar, a permanent resident of Village Sawtal Basti, PO and PS Jugijan, Hojai District, Assam and presently residing at C Sector, Itanagar, Opposite Tax and Excise Office, PO and PS Itanagar, Papum Pare District, Arunachal Pradesh.

VERSUS

The State of AP and Anr

represented by the Secretary, General Administration, Govt of Arunachal Pradesh, Itanagar.

2:The Director of Elementary Education

Age: 0

Occupation :

Govt of Arunachal Pradesh

Itanagar

PO and PS Itanagar

Arunachal Pradesh

Advocate for the Petitioner : Abhai Kumar Singh, Tsering Nyima, Nabam Kakum

Advocate for the Respondent : GA (AP), SC (Education), Taba Tagum

:::BEFORE:::

HON'BLE MR. JUSTICE KARDAK ETE

Date on which judgment is reserved : NA

Date of pronouncement of judgment : 27.02.2026

Whether the pronouncement is of
the operative of the judgment? : No

Whether the full judgment has been

pronounced?

: Yes

JUDGMENT & ORDER (ORAL)

Heard Mr. A. K. Singh, learned counsel for the petitioner and also heard Mr. K. Wangmo, learned State counsel for respondent No. 1 and Mr. T. Tagum, learned Standing Counsel, Education Department for respondent No. 2.

2. By filing this writ petition, the petitioner has put to challenge the suspension order No. GAD-42/2023 dated 09.03.2024 passed by the Secretary (GA), Govt. of Arunachal Pradesh whereby, the petitioner has been placed under suspension in connection with SIC P.S. Case No.03/2023 under Sections 120 (B), 409, 420, 468 and 471 of IPC, 1860 read with Section 13 (2) of the Prevention of Corruption Act, 1988 on being arrested and detained on 23.01.2024 by invoking Sub-Rule (2) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and review and extension order dated 18.10.2024 issued on 21.10.2024 as well as its continuous suspension.

3. Briefly put, the case of the petitioner is that he was appointed as Personal Assistant in the year, 1995 on *ad-hoc* basis and his service was regularized in the year 1999. While the petitioner was working under the establishment of Directorate of Elementary Education, Govt. of Arunachal Pradesh, he was arrested and detained on 23.01.2024 in connection with SIC P.S. Case No.03/2023 under Sections 120 (B), 409, 420, 468 and 471 of IPC, 1860 read with Section 13 (2) of the Prevention of Corruption Act, 1988 relating to the allegation of irregular and illegal appointments in the Education Department.

4. The Secretary (GA), Govt. of Arunachal Pradesh vide order No.GAD-42/2023 dated 09.03.2024 placed the petitioner under suspension w.e.f. 23.01.2024 in terms of the Sub-Rule (2) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. A review was conducted and vide order dated 12.04.2024, the suspension of the petitioner was extended for another period of 90 days w.e.f. 22.04.2024 to 20.07.2024.

5. The petitioner on being released from jail on 07.05.2024 filed a representation before the Secretary (GA) for revocation of his suspension order and to reinstate him in the service. The respondent authority vide order dated 06.07.2024 extended the suspension of the petitioner w.e.f. 21.07.2024 to 18.10.2024. The Secretary (GA), Govt. of Arunachal Pradesh vide impugned order dated 18.10.2024 issued on 21.10.2024 extended the suspension of the petitioner for another period of 90 days w.e.f. 19.10.2024 to 16.01.2025, which is under challenge to the effect that the extension order is beyond 90 days of the extended period of suspension. The respondent authority extended the suspension of the petitioner from time to time last being the order dated 08.01.2026 for another period of 90 days w.e.f. 12.01.2026 to 11.04.2026.

6. Mr. A. K. Singh, learned counsel for the petitioner, while referring to the file noting (as annexed in the writ petition as Annexure-9) submits that although the impugned order dated 18.10.2024 is shown to have been issued after the review was conducted on 17.10.2024, in fact, review was conducted only on 22.10.2024 and the approval was granted on 24.10.2024 and therefore, there was a delay of 6 days in reviewing the suspension of the petitioner within 90 days as the approval was granted

only on 24.10.2024 which is illegal.

7. Mr. Singh, learned counsel has relied upon the case of **Ajay Kumar Choudhary-vs-Union of India and Another;** reported in **(2015) 7 SCC 291**, the relevant paragraph is reproduced herein below:-

“21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us”.

8. Mr. Singh, learned counsel has also relied on a judgment of this Court in the case of **Santosh Kumar -vs-Union of India & Others;** reported in **2025 (3) GLT 485**, the relevant paragraphs are extracted herein below:

“12. A careful perusal of the Rules reveal that the Rule 10 mandates categorically that an order of suspension made or deemed to have been made shall not be valid after a period of 90 days unless it is extended after review, for a period beyond the expiry of 90 days. The Rule therefore prescribes that any order of extension must be reviewed and also be extended before the expiry of 90 days of the order of suspension issued by the authority. This Rule came to be interpreted in a Judgment of the Apex Court rendered in Dipal Mali (Supra) where the Apex Court upheld the Judgment of High Court of Madhya Pradesh which had interfered with the extension of the suspension order and which order of the High Court came to be assailed before the Apex Court. The Apex Court upon examining the entire matter as well as the CCS (CCA) Rules categorically held that the review and modification or revocation of the

order of suspension was required to be done before the expiry of 90 days from the date of the order of suspension and as had been categorically provided under Sub Rule 7. The Apex Court held that the order of suspension made or deemed to be made would not be valid after a further period unless it was extended after review before expiry of the period of 90 days.

13. The reference to the instant Rule as well as its interpretation given by the Apex Court clearly lays down the emphasis on the review as well as the extension of the order prior to 90 days of the expiry of the suspension order.

14. From the pleadings available on record, it is clear that there is no dispute that the suspension order was issued on 19.7.2019 putting the petitioner under deemed suspension until further orders. There is also no dispute on facts that the petitioner was taken into custody on 19.09.2019 and therefore under the provisions of Rule 10(2) of the CCS (CCA) Rules, the petitioner was deemed to be under suspension by order dt. 27.09.2019 until further orders.

15. The question of review of such a suspension order or the necessity of continuance of such a suspension order is prescribed under Sub-Rule 7 of Rule 10. Proviso to Sub-Rule 7 of Rule 10 however, makes it clear that the review of such a suspension order shall be required only after the Government Servant detained in custody is released from detention or from the date on which the fact of his release was intimated to appointing authority.

16. In the facts of the present case, it is clear that after his release from detention on 18.04.2020, he had intimated to the respondent authorities by way of an E-mail on 20.04.2020 about his release from detention. There is no denial by the respondents regarding those emails by the petitioner. Therefore, in terms of Rule 10(7) of CCS (CCA) Rules, it is clear that the period of 90 days for review and extension of the order of suspension by the respondent authority was required to have been completed by 19.07.2020. But the same was issued only on 22.07.2020. Even if the argument of the counsel for the respondent is to be accepted that decision for review was taken on 25.06.2020 even then the order of extension of the review, as mandated under Rule 10(7) was required to be issued prior to the expiry of 90 days from the date of suspension of the petitioner and which date expired on 20.07.2020.

17. Under such circumstances, this Court is of the view that the impugned suspension order dated 22.07.2020 which was issued lost its force or validity w.e.f. 20.07.2020 and therefore an order which has lost its validity could not have been extended by subsequent order as have been done in the present case.

18. Accordingly, the writ petition stands allowed. The impugned order of

suspension dated 22.07.2020 is hereby interfered with, set aside and quashed.

21. The petitioner will be granted all his pay benefits with effect from the date when the original order of suspension ceased to operate in terms of the discussion above”.

9. Mr. T. Tagum, learned Standing Counsel, Education Department, submits that the petitioner was placed under suspension vide order dated 09.03.2024 w.e.f. 23.01.2024 as per the arrest intimation received by the authority. The extension of the suspension of the petitioner has been done after review from time to time in terms of the Rule 10(6) as the investigation is still not yet completed. There is *prima facie* involvement of the petitioner in the case. He submits that the impugned order of suspension dated 18.10.2024 was passed on the basis of the meeting of the suspension review committee which was held on 17.10.2024 for further extension of 90 days of the suspension of the petitioner as the investigation in the case is yet to be completed. Therefore, there is no delay in reviewing the suspension of the petitioner as all the reviews by the suspension review committee are within 90 days from the date of suspension and its extension.

10. I have considered the submissions advanced by the learned counsel for the parties and also perused the materials available on record.

11. The petitioner was suspended on 09.03.2024 by the Secretary (GA) Govt. of Arunachal Pradesh on the intimation of the authority that the petitioner was arrested on 23.01.2024 w.e.f. 23.01.2024 to 27.01.2024 in connection with SIC P.S. Case No.03/2023 under Sections 120 (B), 409, 420, 468 and 471 of IPC, 1860 read with Section 13 (2) of the Prevention of Corruption Act, 1988 by invoking the provisions of Sub-Rule (2) of Rule

10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The first review of suspension and extension order was issued on 12.04.2024 extending another 90 days till 20.07.2024. Thereafter, from time to time the suspension of the petitioner has been extended last being 08.01.2026 extending the period of another 90 days till 11.04.2026. The challenge made is to the extension order dated 18.10.2024 issued on 21.10.2024 on the ground that same was backdated and issued after lapse of 6 days.

12. It is not disputed that the petitioner was placed under deemed suspension and the first and subsequent extensions of the period of suspension are within 90 days except the order dated 18.10.2024 which was issued on 21.10.2024.

13. Perusal of the office file noting reflects that on 11.10.2024 a proposal was mooted for constitution of suspension review committee which may be met on 16.10.2024 as the extension period of 90 days would expire on 18.10.2024. Accordingly, a committee was constituted on 14.10.2024. The Joint Secretary in its note dated 21.10.2024 suggested for fixing a suitable date and time which was approved by the Secretary (GA) on the same day. The Assistant Section Officer vide its note dated 22.10.2024 placed the matter indicating that the suspension review committee met on 17.10.2024 and committee examined all the documents placed in the meeting and recommended to continue the suspension of the petitioner. Accordingly, approval for extension of suspension was sought to be obtained from the competent authority. The Secretary (GA) has approved the recommendation of the suspension review committee on 24.10.2024.

14. Perusal of the records reflects that the suspension review committee purported to have held the meeting on 17.10.2024. However, there is nothing on record to show that the meeting was held on 17.10.2024 except mentioning in the draft. Thus, I am of the considered view that the meeting of the suspension review committee could not have been shown to have held on 17.10.2024 rather the draft was only placed on 22.10.2024 which was approved on 24.10.2024 as it clearly reveals that the proposal was mooted on 11.10.2024 for constitution and meeting of suspension review committee and the same was approved only on 21.10.2024 for such meeting of suspension review committee. Therefore, there is a delay of 3 (three) days in review of the extended suspension of the petitioner within 90 days from the date of last extension order dated 06.07.2024.

15. The law on the suspension or deemed suspension of the Government servant is well settled by now. The suspension of the Government employee required to be reviewed within a period of 90 days. If no Memorandum of Charges/Charge Sheet is served within 90 days, the currency of the suspension order should not be extended beyond 3 months. If it is served, reason order must be passed for extension of suspension. As held by the Hon'ble Supreme Court in the case of **Ajay Kumar** (Supra), the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent employee, if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension.

16. In the present case, the extension of suspension of the petitioner is

shown to have passed on 18.10.2024 and issued on 21.10.2024. However, records reveals that same was approved to have the meeting of the suspension review committee on 22.10.2024 and approval was granted only on 24.10.2024. Thus, there is a delay of 6 days in passing the order dated 18.10.2024 which is beyond the extended period of 90 days. More so, no departmental proceeding has been initiated against the petitioner nor chargesheet has been filed even after lapse of 2 (two) years from the date of suspension.

17. That apart, as per the circular dated 23.01.2025 issued by the Commissioner to the Government of Arunachal Pradesh, Department of Administrative Reforms and Training, *inter alia*, provides that an order of suspension made or deemed to have been made shall not be valid after a period of 90 days unless it is extended after review, for a further period before the expiry of 90 days, provided that in a case where no charge sheet is issued, the total period under suspension or deemed suspension, as the case may be, including any extended period in terms of Sub-rule (6) shall not exceed 2 (two) years from the date of order of suspension, if the Government servant is placed under suspension in terms of clause (aa) or clause (b) of sub-rule (1) as the case may be or 2 (two) years from the date the Government servant detained in custody is released or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later, in the case of deemed suspension under sub-rule (2).

18. In view of what has been discussed herein above, I am of the considered view that the impugned extension order of suspension dated 18.10.2024 issued on 21.10.2024 is not within 90 days of the extended

period as the meeting of the suspension review committee was seen to have been held only on 21.10.2024 and approved on 24.10.2024 and therefore, is not sustainable and the orders subsequent to the impugned order, even if passed within 90 days, are inconsequential.

19. In the result, the impugned suspension order No. GAD-42/2023 dated 09.03.2024 and order dated 18.10.2024 issued on 21.10.2024 are hereby interfered with and accordingly, set aside. The petitioner shall be reinstated in service with all his pay benefits with effect from 19.10.2024.

20. Writ petition stands allowed and disposed of. No order as to cost(s).

JUDGE

Comparing Assistant