GAHC040015642024 2026:GAU-AP:52-DB

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

WA 31(AP) OF 2024

1. The State of Arunachal Pradesh
   though the Chief Secretary,
   Government of Arunachal Pradesh,
   Itanagar.
2. The Chief Secretary,
   Government of Arunachal Pradesh,
   Itanagar.
3. The Secretary (Personnel),
   Government of Arunachal pradesh,
   Itanagar.
4. The Under Secretary (Personnel),
   Govt. of Arunachal Pradesh.
5. The Secretary,
   The Arunachal Pradesh Public Service Commission,
   Itanagar

.....*Respondents*

-VERSUS-

Sri Nima Tondrang,
S/O- Lt. O. Tondrang.
Joint Secy, Aruncahal Pradesh Civil Secretariat,
Itanagar, Papumpare District.

……..**Appellant**

::: BEFORE :::

HON'BLE MR. JUSTICE KALYAN RAI SURANA

HON'BLE MR. JUSTICE PRANJAL DAS

Advocates:

For the petitioner : Mr. Subu Tapin, Advocate.

For the respondents : Mr. Dicky Panging, Advocate

Date on which judgment is reserved : 12.11.2025

Date of pronouncement of judgment : 09.01.2026

Whether the pronouncement is of

the operative part of the judgment? : No

Whether the full judgment has been Pronounced? : Yes

JUDGMENT & ORDER (CAV)

(Pranjal Das. J)

1. Heard Mr. Subu Tapin, learned Senior Government Advocate, Arunachal Pradesh. Also heard Mr. Dicky Panging, learned counsel appearing for the respondents.

2. The instant writ appeal has been preferred by the State of Arunachal Pradesh aggrieved by the judgment and order dated 09.11.2023 passed by the learned Single Judge in WP(C) 388 (AP)/2023.

3. The factual matrix in brief are that vide order dated 29.10.2022 petitioner who was a Joint Secretary (Establishment) in the office of the Arunachal Pradesh Public Service Commission (APPSC), Arunachal Pradesh, Itanagar was placed under suspension pending initiation of departmental proceeding. By order dated 29.10.2022 issued by the Secretary of Arunachal Pradesh Public Service Commission (herein after APPSC). The said suspension was extended by

orders dated 25.01.2023 and 24.07.2023 exercising power under Rule 10(6) of the CCS (Classification Control and Appeal Rules 1965) (CCS/CCA Rules).

4. The basic contention of the writ petitioner was that the suspension was made in contemplation of disciplinary proceedings. But the same was not initiated and the continuance of the suspension beyond the permissible period made it untenable in terms of the law laid down by the Hon'ble Apex Court in the case of ***Ajay Kumar Choudhary vs Union of India and another reported in (2015) 7 SCC 291.***

5. The learned single judge after considering the entire matter and hearing the parties found that the suspension order had exceeded the maximum permissible 270 days in terms of Rule 10(7) Proviso of the CCS CCA Rules 1965 and as the disciplinary proceedings was not yet initiated - it also violated the law laid down by the Hon'ble Apex Court in ***Ajay Kumar Choudhary (supra).***

6. In such view of the matter, the original suspension order dated 29.10.2022, whereby the petitioner was first placed under suspension, was set aside and quashed. The petitioner was directed to be reinstated in service forthwith.

7. The relevant para.11, 12 and 13 of the Impugned judgment passed by the learned Single Judge in WP(C) No. 390/2023 may be reproduced here in below.

> "*11. The settled proposition of law as discussed hereinabove and the admitted fact of non-issuance of charge memo in the present case, leads to an unhesitant view that this is a case of protracted suspension and repeated renewal without there being any recorded reason. Though, more than one year has elapsed from the date of suspension till date, admittedly, no departmental proceeding has been initiated as contemplated in the initial order of suspension dated 29.10.2022. Therefore, in the considered opinion of this Court, the action on the part of the respondent authority is not permissible under the aforesaid settled*

proposition of law as enunciated by the Hon'ble Apex Court in Ajay Kr Choudhary (supra).

12. Yet another facet of the issue is that the extension of suspension were ordered in exercise of power under Rule 10 (6) of the CCS (CCA) of the Rules, 1965 and therefore, in view of the amendment of the Proviso to Rule 10(7) of the CCS (CCA) Rules, 1965, the employer is no more vested with the power to continue the suspension inasmuch as such provision mandates that in a case, where no charge sheet is issued under the CCS (CCA) Rules, 1965, total period of suspension or deem suspension including any extended period in terms of Rule 10 (6) of the CCS (CCA) Rules, 1965, cannot be exceeded beyond 270 days from the date of order of suspension, if the order of suspension is in contemplation of departmental proceeding and in the case in hand, the petitioner has been under suspension for more than 270 days as on today. Therefore, any order of extension of the suspension beyond 270 days is a nullity being in derogation of the aforesaid mandate of Proviso to Rule 10 (7) of the CCS (CCA) Rules, 1965.

13. In view of the forgoing discussions, reasons and decisions, the present writ petition stands allowed by setting aside the impugned order of suspension dated 29.10.2022 and the respondents are directed to reinstate the petitioner in service forthwith. While parting with the record, it is made clear that the employer is free to transfer the petitioner to any department in any office in terms of the extant service rules."

8. The primary contention of the State is that though the learned Single Judge found the continued suspension of the petitioner to be bad in law and facts in terms of the governing rules and the applicable case law, an error was made in setting aside the original suspension order and directing reinstatement of the petitioner in service. Based on such contentions, the State is seeking interference with the judgment and order dated 09.11.2023 to the extent it sets aside the suspension order dated 29.10.2022.

9. The writ petitioner has been impleaded as the sole respondent in this writ petition and he has filed a reply by way of affidavit supporting the impugned judgment and order dated 9.11.2023 and contending that the learned Single

Judge has rightly interfered with the suspension order dated 29.10.2022 as the same had become untenable in law and facts, in as much as, it continued beyond the permissible maximum permissible period of 270 days and the suspension order passed and the extensions made without sufficient reasons and in violation of the law laid down by the Hon'ble Supreme Court. Therefore, the writ petitioner contents that there is no merit in this writ appeal and it is liable to be dismissed.

10. We have perused the impugned judgment and order and the grounds taken in the writ appeal, the reply of the sole respondent and other relevant materials. We have considered the submissions of the learned counsels on both the sides.

11. Before proceeding further, the relevant portions of **Rule 10(6)** of the CCA Rules 1965 may be reproduced herein below:

> "*CCS (CCA) Rules, 1965 (Central Civil Services (Classification, Control and Appeal) Rules) primarily deals with the mandatory, periodic review of government servant suspensions to ensure they are justified and not prolonged unnecessarily, requiring the competent authority to review suspension orders within 90 days (and subsequently for extended periods) to decide on extension or revocation, preventing arbitrary detention and upholding principles of natural justice.* "

12. Ajay Kumar Choudhary vs Union of India, **(2015) 7 SCC 291** is the leading case on the time limits for suspension orders. In the said judgment, the Hon'ble Supreme Court has laid down a basic fundamental principle that - when suspension is done in contemplation of departmental proceedings and no departmental proceeding is initiated by way of submission of charge-sheet, that the maximum permissible period for such suspension is 90 days.

The relevant paragraph (being para 21) may be reproduced herein below:

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> "***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 recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize 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."*

13. It may be mentioned herein that Rule 10 of the CCS (CCA) Rules 1965 was amended to incorporate the provision of second proviso {***in Rule 10(7)*** to the effect that when suspension is made in contemplation of disciplinary proceedings, the maximum permissible period is **270 days** from the date of suspension. Thus, in terms of the said provision, if charge-sheet is not filed within that period, then any continuance of suspension beyond that period would be a nullity. The said aspect has also been gone into by the learned Single Judge in the impugned judgment and order.

14. Before proceeding further, para 11 of ***Ajay Kumar Choudhary (Supra)***

may be reproduced herein below: -

> "***11.*** *Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay. Thus, even within the permissible period, extensions should be supported by bona fide reasons and should not be mechanical extensions, in which case such extension could be vitiated."*

15. In the instant case, the continued period of suspension beyond the period of 270 days would not be sustainable in terms of the Rule itself and the principles laid down in ***Ajay Kumar Choudhary (Supra)*** and the learned Single Judge has rightly held such extension beyond 270 days to be untenable. Further, the learned Single Judge has found that even the extension of 25.01.2023 has not been supported by any cogent reasons, except for a bland reason of the extension being in public interest. The extensions dated 25.04.2023, 24.07.2023 and 31.10.2023 were also been found to be similarly placed. Therefore, in terms of the settled principles noticed above, such extensions would also be vitiated and liable to be interfered with.

16. Upon perusing the order of the learned Single Judge, we find that the learned Single Judge has basically gone into the sustenance of the extended periods of suspension and found them to be untenable and consequently, interfered with the same.

17. However, in the impugned judgment, the learned Single Judge was pleased to set aside the original suspension order dated 29-11-2022. Needless to say that, the original suspension order can be also set aside, if the same is

under the subject of challenge and if it is found to be erroneous in law and facts.

18. The discussion of the learned Single Judge in the impugned judgment has not really gone into the merits of the original suspension order. Rather, the focus has been on the tenability of the extensions.

19. To that extent, we are of the considered opinion that there was an error in the decision of the learned Single Judge in setting aside the original suspension order dated 29.10.2022, though only the extensions have been found to be untenable.

20. Therefore, the impugned judgment and order is modified to the extent indicated below: -

(i) The continuance of the suspension beyond the period of 270 days, under the facts and circumstances of this case is not sustainable and accordingly, set aside.

(ii) The extensions of the original suspension order by extension orders dated 25.01.2023, being not supported by cogent reasons is also untenable and accordingly, set aside.

(iii) The remaining extension orders dated 25.04.2023, 24.07.2023 and 31.10.2023, being similarly placed are also untenable and accordingly set aside.

(iv) On the basis of this modified determination, it is hereby made clear that for the period from **25.01.2023,** when the first extension order was made - till the reinstatement of the petitioner respondent - he shall be entitled to the full pay and allowances.

(v) However, with regard to pay and allowances for the period from the date of the original suspension order i.e.,**29-10-2022** till the date of the first extension i.e., **25-01-2023** - the departmental authority may determine the same by taking recourse to the principles incorporated in **F.R. 54-B (5).** Thus, for this purpose, the authority may give notice to the employee / writ petitioner and after taking into account his representation, if any, and shall pass a reasoned order regarding the payment of back wages and other financial benefits for that limited period from 29-10-2022 to 25-01-2023.

21. The writ appeal is accordingly **partly allowed** to the extent indicated above and is disposed of.

JUDGE **JUDGE**

Comparing Assistant