

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 1251 of 2026

1. Union of India through the Secretary, Government of India, Department of Posts, Government of India, Sansad Marg, Dak Bhawan, P.O. - Dak Bhawan, P.S. Sansad Marg, New Delhi.
2. The Director General, Department of Posts, Government of India, Sansad Marg, Dak Bhawan, P.O. - Dak Bhawan, P.S. - Sansad Marg, New Delhi.
3. The Chief Postmaster General, Jharkhand Circle, Meghdoot Bhawan, Doranda, P.O. & P.S. Doranda, District-Ranchi, Jharkhand.
4. The Director of Postal Services, Jharkhand Circle, Meghdoot Bhawan, Doranda, P.O. & P.S. Doranda, District- Ranchi, Jharkhand.
5. The Superintendent of Post Office, Giridih Division, P.O. & P.S. - Giridih, District - Giridih, Jharkhand.

... .. **Petitioners**

Versus

Shashi Bhushan Kumar, Son of Sri Ramashish Pandey, Resident of at Shalimar Puranadih Basti, Post Office-Jealgore, District- Dhanbad, Jharkhand

... .. **Respondent**

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD

For the Petitioners : Mr. Abhijeet Kr. Singh, CGC
 For the Respondent : Mr. Rishikesh Giri, Advocate

Order No.11/Dated 25th August, 2026

Per Sujit Narayan Prasad, J:

1. The writ petition is under Article 226 of the Constitution of India directed against the order dated 18.07.2025 passed in OA/051/00677/2022 by the learned Central Administrative Tribunal, Patna Bench, Circuit Bench at Ranchi whereby and whereunder the subsequent orders of extension of suspension passed against the applicant (respondent herein) beyond the first three months of the original date of suspension that was 27.09.2019, has been quashed and set aside and direction was passed upon the respondents to take a decision on the entitlement of the applicant for the first three months of the suspension in accordance with the relevant provisions of Fundamental Rule.

Factual Matrix

2. The brief facts of the case as per the pleading made in the writ petition, which is being referred herein reads as under :-

- (i) The case of the writ petitioners (respondent before tribunal) is that the applicant (respondent herein) was identified as prime accused in a fraud exceeding Rs. 26 crores in Giridih Division under Jharkhand Postal Circle for his period of working as Treasurer, Giridih Head Post office during the year 2014 to 2018 and as APM (SB) Counter, Giridih Head Post office w.e.f. 06.08.2018 to 12.07.2019, 15.07.2019 to 02.08.2019 & 05.08.2019 to 31.08.2019.
- (ii) He was placed under suspension by SPOs Giridih Division vide order dated 27.09.2019 in connection with the fraud at Giridih HO and Giridih Town SO.
- (iii) The Respondent /Applicant had filed an appeal dated 08.01.2022 and also an OA No. 122/2022 before the learned Central Administrative Tribunal against the suspension order.
- (iv) The learned Central Administrative Tribunal vide its order dated 17.02.2022 directed to consider and take decision on appeal dated 08.01.2022.
- (v) The said appeal was considered and rejected by the competent authority vide order dated 06.05.2022 as the fraudulent amount was more than Rs. 26 crores and CBI investigation was pending.
- (vi) Prosecution sanctions were issued by SPOS Giridih Division, as asked by CBI in cases No. RC-02(A)/2021-D and RC-10(A)/2019-D on 21.11.2022 & 07.02.2023 respectively. Further charge sheets in

both cases were filed by CBI on 19/12/2022 and 07/04/2023 respectively.

(vii) Further after rejection of appeal against suspension, the applicant filed an O.A. No. 677/2022 before the learned CAT. The suspension case of the applicant was reviewed by the suspension review committee on 17.12.2019, 10.06.2020, 03.12.2020, 27.05.2021, 25.10.2021, 21.02.2022, 11.08.2022, 06.09.2022 and 18.11.2022. On the basis of recommendation of the SRC, the suspension of the official was revoked vide order dated 18.11.2022.

(viii) The learned CAT vide its order dated 18.07.2025 in O.A. No. 677/2022, quashed and set aside the subsequent orders of extension of suspension beyond the first three months of original date of suspension that was 27.09.2019. The learned CAT further ordered that the applicant will be entitled to salary after the first three months of the suspension minus the subsistence allowance already paid to him. As per orders of learned CAT the effective date of revocation of suspension will be 27.12.2019.

(ix) In the said order, learned CAT has held that the extension of suspension beyond three months is against the law settled by Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary Vs. Union of India 2015 AIR (SC) 2389* and also against DOPT guidelines issued on 23.08.2016. It has also been held that subsequent issuance of charge sheet 07.03.2022 does not make the extension any lawful.

(x) It is the case of the writ petitioner that learned CAT failed to appreciate that the case of the respondent/applicant is totally on different footing because a criminal case has been registered against

him which is being investigated by CBI and delay if any in issuance of charge sheet is there, it is because of pendency of enquiry by CBI. Further, the charges against the respondent/applicant are of fraud involving Rs. 15,44,45,972/-.

(xi) Against the said order dated 18.07.2025 passed by the learned tribunal the present petition has been filed.

3. It is evident from the factual aspect that the petitioner, while working in the Jharkhand Postal Circle as Treasurer at Giridih, was suspended with effect from 27.09.2019 in-contemplation of the departmental proceeding and he remained under suspension. The departmental proceeding continued, but no decision was taken either to invoke the order of suspension or recalling it.

4. The applicant (respondent herein) has approached the learned Central Administrative Tribunal, Patna Bench, Circuit Bench at Ranchi praying therein for revocation of order of suspension issued against the applicant by the SPOs Giridih under O/o SPOs Giridih Memo No. B-400 dated 27.09.2019 (Annexure- 1).

5. The learned Central Administrative Tribunal vide its order dated 17.02.2022 directed the respondent (petitioner herein) to consider and take decision on appeal dated 08.01.2022.

6. The said appeal was considered and rejected by the competent authority vide order dated 06.05.2022 by taking the ground of the fraudulent amount which was more than Rs. 26 crores and CBI investigation was pending.

7. Further after rejection of appeal against suspension, the applicant filed an O.A. No. 677/2022 before the learned CAT. Meanwhile the

suspension case of the applicant was reviewed by the suspension review committee (SRC) on 17.12.2019, 10.06.2020, 03.12.2020, 27.05.2021, 25.10.2021, 21.02.2022, 11.08.2022, 06.09.2022 and 18.11.2022. On the basis of recommendation of the SRC, the suspension of the official was revoked vide order dated 18.11.2022.

8. The learned Tribunal has called upon the respondent/writ petitioner herein. The writ petitioner has filed written statement wherein the stand *inter alia* was taken that a fraud involving Rs. 15,44,45,972/- came to light at Giridih HO/Giridih Town and based upon that the department proceeding has been decided to be initiated and the memorandum of charge was served upon the applicant on 07.03.2022.

9. The learned Tribunal has considered the rival submission made on behalf of the parties particularly on the issue of the propriety of the order of suspension, which has been allowed to be continued beyond the first three months of the original date of suspension that was 27.09.2019.

10. The learned Tribunal has considered the judgment passed by the Hon'ble Apex Court in the case of **Ajay Kumar Chaudhary Vs. Union of India** (supra) and vide order dated 18.07.2025 passed in O.A. No. 677/2022, quashed and set aside the subsequent orders of extension of suspension beyond the first three months of original date of suspension that was 27.09.2019 and further hold that the applicant will be entitled to salary after the first three months of the suspension minus the subsistence allowance already paid to him. It has further been directed to take a decision on the entitlement of the applicant for the first three months of the suspension in accordance with the relevant provisions of Fundamental Rule that liberty is there.

11. The said order dated 18.07.2025 is under challenge in the instant writ petition.

Submission made on behalf of the Petitioner.

12. Mr. Abhijeet Kumar Singh, learned Central Government Counsel has taken the following ground in assailing the order passed by the learned Tribunal.

13. It has been submitted that the learned Tribunal has not appreciated the fact about the gravity of charge and without any basis, the order of suspension has been held to be not proper beyond the period of ninety days.

14. It has further been submitted that holding the respondent entitled for difference of period of salary beyond the period of three months cannot be said to be just and proper in an admitted case of non-conclusive of the departmental proceeding, since, the order of suspension was in contemplation of the departmental proceeding and as such, the order of suspension cannot be said to be unjust and improper in a situation, when the departmental proceeding has not been concluded.

15. Learned Central Government Counsel based upon the aforesaid ground, has submitted that the impugned order passed by the learned Tribunal is not sustainable in the eyes of law.

Submission made by learned counsel appearing for the respondent.

16. Mr. Rishikesh Giri, learned counsel appearing for the respondent herein, applicant before the learned Tribunal has submitted that there is no error in the impugned order.

17. It has further been submitted that the order of suspension dated 27.09.2019 was in contemplation of the departmental proceeding, but the

departmental proceeding has been initiated only after the serving of the memorandum of charged on 07.03.2022, as such, keeping an employee under suspension for a long period is contrary to the principle of prolong suspension.

18. It has further been submitted that the learned Tribunal has also taken note of the observation made in the judgment passed by the Hon'ble Apex Court in the case of *Ajay Kumar Chaudhary Vs. Union of India* (Supra) and based upon that the direction has been passed holding the applicant, respondent herein, entitled for the difference of arrears of salary for the period of suspension, which cannot be said to be unjust and improper.

19. The learned counsel, based upon the aforesaid ground, has submitted the impugned order, therefore, needs no interference.

Analysis

20. This Court has heard learned counsel for both the parties and gone through the pleadings made in the writ petition as also the finding recorded in the impugned order.

21. The issue, which requires consideration, as has been dealt with before the learned Tribunal as to :

- (I) whether the period of suspension beyond the first three months, which has been held to be not sustainable, is unjust and improper keeping the facts into consideration that the order of suspension, which was issued in contemplation of initiation of departmental proceeding, has not been initiated until the date of service of memorandum of charge i.e. 07.03.2022,

- (II) whether holding the applicant entitled for the salary after the first three month of suspension minus the subsistence allowance already paid to the respondent herein - applicant suffers from an error.

22. Both the issues are interlinked and as such, being taken into consideration together, but before answering the aforesaid issues, thinks it proper to first refer about the jurisdiction which is to be exercised under Article 226 of the Constitution of India as has been held by the Hon'ble Apex Court in its Constitution Bench judgment rendered in the case of “ ***L. Chandra Kumar v. Union of India and Ors.***”, (1997) 3 SCC 261, relevant paragraph-99 thereof is quoted hereunder as:

"99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323- A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323- B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which

creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated."

23. It is evident from the ratio laid down therein that the power of judicial review has been deliberated by the Hon'ble Apex Court, which is to be considered while exercising the said power only to the extent that if any order is being passed found to be having error on the face of the order or without jurisdiction or suffers from perversity. The error apparent on the face of the order means that if the order appears on its face having with error, then only the power of judicial review is to be exercised.

24. The Hon'ble Apex Court in the case of “***West Bengal Central School Service Commission vs. Abdul Halim***”, (2019) 18 SCC 39, has held at paragraph-30 that the power of judicial review must be exercised by the Court after determining that the impugned order is vitiated by an error apparent on the face of the record and not the same has been established by a process of reasoning. Paragraph-30 of the aforesaid judgment is being referred as under:

"30. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137] . ----."

25. In the case of ***T.C. Basappa vs. T. Nagappa and Anr.***, (1955) 1 SCR 250, their Lordship have held that the patent error in a decision can

be corrected by writ of certiorari, when it is manifested by the error apparent on the face of the proceedings. The relevant portion of the aforesaid judgment is quoted hereunder:

"11. ... An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision."

26. This Court is now proceeding to examine as to whether the order passed by the learned Tribunal either suffers from the element of having error on the face of the order or suffers from perversity.

27. At this juncture, it needs to refer herein that the interpretation of the word "perverse" as has been interpreted by the Hon'ble Apex Court which means that there is no evidence or erroneous consideration of the evidence. The Hon'ble Apex Court in *Arulvelu and Anr. vs. State [Represented by the Public Prosecutor] and Anr., (2009) 10 SCC 206* while elaborately discussing the word perverse has held that it is, no doubt, true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as so to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law. Relevant paragraphs, i.e., paras-24, 25, 26 and 27 of the said judgment reads as under:

"24. The expression "perverse" has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court observed that the expression "perverse" means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.

25. In *Parry's (Calcutta) Employees' Union v. Parry & Co. Ltd.* [AIR 1966 Cal 31] the Court observed that “perverse finding” means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In *Triveni Rubber & Plastics v. CCE* [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.

26. In *M.S. Narayanagouda v. Girijamma* [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In *Moffett v. Gough* [(1878) 1 LR 1r 331] the Court observed that a “perverse verdict” may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In *Godfrey v. Godfrey* [106 NW 814] the Court defined “perverse” as turned the wrong way, not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.

27. The expression “perverse” has been defined by various dictionaries in the following manner:

1. *Oxford Advanced Learner's Dictionary of Current English*, 6th Edn.

“Perverse.—Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable.”

2. *Longman Dictionary of Contemporary English*, International Edn.

Perverse.—Deliberately departing from what is normal and reasonable.

3. *The New Oxford Dictionary of English*, 1998 Edn.

Perverse.—Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.

4. *The New Lexicon Webster's Dictionary of the English Language* (Deluxe Encyclopedic Edn.)

Perverse.—Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.

5. *Stroud's Judicial Dictionary of Words & Phrases*, 4th Edn.

“Perverse. —A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.”

28. Thus, from the aforesaid it is evident that if any order made in conscious violation of pleading and law then it will come under the purview of perverse order. Further “perverse verdict” may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.

29. Thus, “perversity” refers to a finding or decision so unreasonable or irrational that no reasonable person acting judicially could have reached it. It signifies a gross and unreasonable assessment of evidence or law by a court.

30. Further Perversity is a high threshold for intervention, distinguishing it from a mere error of fact or law. The "safest approach on perversity is the classic approach on the reasonable man's inference on the facts but inadequacy of evidence or a different reading of evidence is not perversity, reference in this regard be made to the judgment rendered by the Hon’ble Apex Court in the case of ***Damodar Lal v. Sohan Devi, (2016) 14 SCC 197.***

31. It needs to refer herein that the very purpose of order of suspension, in a situation where the decision has been taken by the employer to initiate a departmental proceeding.

32. Admittedly, suspension is not to be construed as a measure of punishment; rather, it signifies only the temporary deactivation of the concerned employee from discharging his official functions and duties.

33. It is also settled position of law that during the period of suspension, the subsistence allowance as admissible under the service

code applicable to the one or other employee, herein, the Central Civil Services (Classification, Control & Appeal) Rules, applicable to the delinquent employee, the respondent herein, is to be paid.

34. Under service jurisprudence, subsistence allowance is a legal right of an employee under suspension pending an inquiry. This grant ensures the employee can maintain themselves and their family, and effectively defend themselves during the disciplinary proceedings. Non-payment of this allowance generally violates the principles of natural justice and Article 21 of the Constitution (Right to Life).

35. The Hon'ble Apex Court in the case of *Surekha Domaji Bele Vs. Executive Engineer, Testing Division, Msedcl 2026 INSC 63* has observed that it would be impossible for a civil servant under suspension, who has no other means of subsistence, to defend himself effectively without payment of subsistence allowance. The principle is that the subsistence allowance must be real and meaningful because the employee is kept away from work and is not permitted to earn a regular salary during suspension; hence, it ordinarily cannot be denied.

36. Further it is settled position of law that the suspension, being not in the nature of punishment, nevertheless invites scrutiny as to its permissible duration. The Hon'ble Apex Court in catena of judgments while considering the legality of prolonged suspension, has categorically deprecated the practice of keeping an employee under suspension for an indefinite period without serving the charge-sheet.

37. In its authoritative pronouncement, the Hon'ble Apex Court has held that suspension, though preventive, cannot be allowed to operate as a measure of penalty by reason of its undue prolongation. Reference in

this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of *Ajay Kumar Choudhary v. Union of India (supra)*. The relevant passage of the judgment, as referred herein, makes it clear that continuation of suspension beyond a reasonable period is impermissible in law, for ready reference the relevant paragraph is being quoted herein which reads as under:

“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/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension.”

38. The prolong suspension while interpreting the said word, the Hon'ble the Apex Court has been pleased to observe that the purpose of suspension is that the delinquent employee may not get any access to the documents available, so that the evidence may not be tampered or the witnesses may not be gained over.

39. Thus, when a government employee is suspended during a pending criminal case without concurrent disciplinary action, such suspension cannot continue indefinitely without just cause and employers do not continuously take a stand that it is not conducive to revoke suspension merely due to the pendency of a criminal case. A prolonged suspension, either without holding any inquiry or in an unreasonably prolonged inquiry, is neither just nor in the larger public interest and can become penal. While suspension pending a contemplated inquiry is not a punishment at the initial stage, it may become punitive or unlawful with the passage of time if the disciplinary inquiry is unreasonably prolonged

or not initiated at all, without any fault on the part of the delinquent employee.

40. The fact about putting the employee under suspension although is for the basic reason to have the departmental proceeding concluded fairly and transparently, but is it available for the employer to keep the employee under suspension indefinitely even without initiating a departmental proceeding.

41. There is difference between suspension as a preventive measure and suspension as a punishment. While suspension is intended to prevent interference with investigations or to maintain discipline, it is not meant to be a penalty prior to proof of guilt. However, when suspension is unduly prolonged, it transforms into a punitive action, causing reputational harm and professional stagnation.

42. There is no dispute upon the settled position of law that the departmental proceeding is said to be initiated there when the memorandum of charge is being issued to the delinquent employee.

43. The respondent herein-applicant has been put under suspension on 27.09.2019 and the departmental proceeding was decided to be initiated. The memorandum of charge was issued only on 07.03.2022 i.e. after a lapse of two and a half years.

44. Then the question is for what, the applicant (respondent herein) was put under suspension when there was material available said to be sufficient for framing of charge, as has been submitted by the learned Counsel that due to pending of criminal case before the CBI Court, the document could have only been obtained in the year of 2022, thereafter the memorandum of charge was formulated and if that was the situation

then why the Government has not taken a decision to recall the order of suspension because the subsistence allowance admittedly was being paid in favour of the delinquent employee, but without rendering any service then the rightful approach of the Government could have to recall of the order of suspension, so that the employee concern may be allowed to discharge his duties and something may be contributed by such employee, but the other side of the picture in the present case was that the subsistence allowance was being paid but without any work due to the effect of order of suspension .

45. The suspension, although is required but *vis-a-vis* there is need for the employer to get his departmental proceeding concluded on the earliest so that the public exchequer may not be allowed to overburden by making payment of the subsistence allowance without taking any work from the delinquent employee.

46. In the aforesaid pretext, the Hon'ble Apex Court has made an observation in the judgment rendered in the case of *Ajay Kumar Chaudhary vs. Union of India (Supra)*. The Hon'ble Apex Court has considered the implication of Section 167 of the Cr.P.C. wherein the mandatory requirement to submit the charge sheet depending upon the nature of commission of offence is either within 60 or 90 days, the maximum period is 90 days. The Hon'ble Apex Court, on the aforesaid pretext, has made an observation that if Parliament considered it necessary that a person be released from incarceration after the expiry of 90 days even though accused of commission of the most heinous crimes, a fortiori suspension should not be continued after the expiry of the

similar period especially when a Memorandum of Charges/Chargesheet has not been served on the suspended person.

47. The Hon'ble Supreme Court, in this case, primarily dealt with the legality of the dismissal and the treatment of the suspension period as punishment. While the Court did not set aside the dismissal, it reinforced the principle that suspension is not intended to be an indefinite state and that its continuation beyond a reasonable period requires review. The Court's observations in this case align with the broader jurisprudence on the need to avoid unduly prolonged suspension, relevant paragraph is being referred herein:

“ It will be useful to recall that prior to 1973 an accused could be detained for continuous and consecutive periods of 15 days, albeit, after judicial scrutiny and supervision. The Cr.P.C. of 1973 contains a new proviso which has the effect of circumscribing the power of the Magistrate to authorise detention of an accused person beyond period of 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years, and beyond a period of 60 days where the investigation relates to any other offence. Drawing support from the observations contained of the Division Bench in Raghbir Singh vs. State of Bihar, 1986 (4) SCC 481, and more so of the Constitution Bench in Antulay, we are spurred to extrapolate the quintessence of the proviso of Section 167(2) of the Cr.P.C. 1973 to moderate Suspension Orders in cases of departmental/disciplinary inquiries also. It seems to us that if Parliament considered it necessary that a person be released from incarceration after the expiry of 90 days even though accused of commission of the most heinous crimes, a fortiori suspension should not be continued after the expiry of the similar period especially when a Memorandum of Charges/Chargesheet has not been served on the suspended person. It is true that the proviso to Section 167(2) Cr.P.C. postulates personal freedom, but respect and preservation of human dignity as well as the right to a speedy trial should also be placed on the same pedestal.”

48. The above decisions do not mean that every suspension beyond a particular period will be automatically void in all cases, but they underline an important principle that suspension is not to become an indefinite condition of civil and economic disability.

49. Here the admitted fact is that the respondent was put under suspension on 27.09.2019, but no proceeding for the period of two and half years, since the memorandum of charge was not served to the respondent, which was only served on 07.03.2022 i.e. after a lapse of two and half years.

50. Thus, extension of suspension beyond three months, without issuance of charge sheet and without reviewing the order of suspension which is mandated to be reviewed within three months is against the order of Hon'ble Supreme Court the case of **Ajay Kumar Chaudhary Vs. Union of India (supra)** and also is in violation of the DoPT guidelines issued on 23.08.2016 pursuant to the said judgement, which clearly mentions that the order of suspension should not be extended beyond three months if within this period charge sheet is not served to the charged officer. For ready reference the DoPT guidelines issued on 23.08.2016 is being referred herein which reads as under:

"The undersigned is directed to refer to DoP&T's O.M. No. 11012/17/2013-Estt.A-III dated 3rd July, 2015 on the above mentioned subject and to say that in a recent case, Ajay Kumar Choudhary vs Union of India Civil Appeal No. 1912 of 2015 dated 16/02/2015, the Apex Court has directed as follows:

"14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum Charges/Chargesheet 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 concerned person 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. 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."

2. In compliance of the above judgement, it has been decided that where a Government servant is placed under suspension, the order of suspension should not extend beyond three months, if within this period the charge-sheet is not served to the charged officer. As such, it should be ensured that the charge sheet is issued before expiry of 90 days from the date of suspension. As the suspension will lapse in case this timeline is not adhered to, a close watch needs to be kept at all levels to ensure that charge sheets are Issued in time."

51. Thus, in the said notification, which has been promulgated in the light of the judgment rendered by the Hon'ble Apex Court, it is explicitly depicted that where a Government servant is placed under suspension, the order of suspension shall not extend beyond a period of three months if, within this time, the charge-sheet is not served upon the charged officer. The principle thereby enshrined is that suspension, being preventive in nature, cannot be allowed to continue indefinitely in the absence of formal initiation of departmental proceedings.

52. Further, at this juncture, it would be deemed fit and proper to advert to *Rule 10(6) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965*, which stipulates that an order of suspension made or deemed to have been made shall be reviewed by the competent authority within ninety days of the effective date of suspension. The Rule further mandates that upon such review, the authority must either extend the suspension for a further period not exceeding one hundred

and eighty days at a time, or revoke the same. Thus, the statutory framework itself underscores that suspension is not intended to be indefinite, but subject to periodic scrutiny and justification, for ready reference Rule 10(6) is being quoted herein which reads as under:.

10. Suspension

"(6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority competent to modify or revoke the suspension, before expiry of ninety days from the effective date of suspension, on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.."

53. A plain reading of the aforesaid Rule makes it evident that it merely prescribes the procedure for extension of suspension beyond ninety days from the effective date thereof. It does not confer upon the Government authorities any unfettered discretion to prolong suspension at will. Any extension of suspension must strictly conform to the conditions stipulated under the Rules themselves and other cognate provisions of law; otherwise, such extension would be rendered ultra vires and unsustainable.

54. Thus, the currency of a suspension order should not extend beyond three months if a charge sheet is not served on the delinquent officer. If a charge sheet is served, the suspension can be extended, but a review must be conducted before the expiry of the three months and the suspension order will not be valid after three months unless a review has extended it.

55. In the present case, it is manifest that no charge-sheet was served upon the appellant until 07.03.2022, the same having been served only

after a lapse of two and a half years from the date of suspension. The delay in serving of charge-sheet was sought to be justified on the ground of pendency of criminal proceedings; however, such ground, by itself, does not constitute a justifiable basis in law in view of the settled principle that suspension cannot be continued beyond three months in the absence of service of charge-sheet, thus the extension of suspension beyond three months without serving charge-sheet to the applicant (respondent herein) in the instant matter stands vitiated.

56. Further, it is an admitted position that although the memorandum of charge was served upon the delinquent employee on 07.03.2022, the departmental proceeding has been concluded only on 06.04.2026, i.e., after an inordinate lapse of seven years. No explanation has been forthcoming as to why such proceeding was permitted to linger for so protracted a period, nor has any accountability been fixed for the delay. The Court is thus constrained to observe that the prolongation of the departmental proceeding for seven years, without justification, raises a serious question as to whose fault the proceeding was allowed to be so unduly prolonged.

57. It needs to refer herein that the settled position that the moment when the departmental proceeding is being decided to be initiated, the same amounts to the accountability of the concern Disciplinary Authority and the departmental proceeding is to be initiated with all sincerity so that it may be concluded within the reasonable period.

58. The Hon'ble Supreme Court in *State of Madhya Pradesh v. Bani Singh*, 1990 Supp SCC 738, has deprecated prolonged and

unexplained delay in serving of charge memo and has held that such delay causes serious prejudice to the delinquent employee.

59. The Hon'ble Apex Court in *State of M.P. v. Bani Singh (supra)*

held as follows:

“4. The appeal against the order dated December 16, 1987 has been filed on the ground that the Tribunal should not have quashed the proceedings merely on the ground of delay and laches and should have allowed the enquiry to go on to decide the matter on merits. We are unable to agree with this contention of the learned counsel. The irregularities which were the subject matter of the enquiry is said to have taken place between the years 1975-77. It is not the case of the department that they were not aware of the said irregularities, if any, and came to know it only in 1987. According to them even in April 1977 there was doubt about the involvement of the officer in the said irregularities and the investigations were going on since then. If that is so, it is unreasonable to think that they would have taken more than 12 years to initiate the disciplinary proceedings as stated by the Tribunal. There is no satisfactory explanation for the inordinate delay in issuing the charge memo and we are also of the view that it will be unfair to permit the departmental enquiry to be proceeded with at this stage. In any case there are no grounds to interfere with the Tribunal's orders and accordingly we dismiss this appeal.”

60. The Apex Court has reiterated the same view in **State of Punjab and Others v. Chaman Lal Goyal 1995 (2) SCC 570** at para 9, held as follows:

“Now remains the question of delay. There is undoubtedly a delay of five and a half years in serving the charges. The question is whether the said delay warranted the quashing of charges in this case. It is trite to say that such disciplinary proceeding must be conducted soon after the irregularities are committed or soon after discovering the irregularities. They cannot be initiated after lapse of considerable time. It would not be fair to the delinquent officer. Such delay also makes the task of proving the charges difficult and is thus not also in the interest of administration. Delayed initiation of proceedings is bound to give room for allegations of bias, mala fides and misuse of power. If the delay is too long and is unexplained, the court may well interfere and quash the charges. But how long a delay is too long

always depends upon the facts of the given case. Moreover, if such delay is likely to cause prejudice to the delinquent officer in defending himself, the enquiry has to be interdicted. Wherever such a plea is raised, the court has to weigh the factors appearing for and against the said plea and take a decision on the totality of circumstances”.

61. In the case of ***State of A.P. v. N. Radhakishan (1998) 4 SCC 154*** after referring to ***Chaman Lal Goyal’s case (supra)***, the Apex Court held at para 19 that the delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings and if there is any unexplained delay in the initiation of departmental proceeding, then it amounts to dereliction in duty/misconduct and for that a penalty is also required to be inflicted against the authority concerned. The relevant paragraph is being referred herein: -

“19. It is not possible to lay down any predetermined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and circumstances in that case. The essence of the matter is that the court has to take into consideration all the relevant factors and to balance and weigh them to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when the delay is abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In considering whether the delay has vitiated the disciplinary proceedings the court has to consider the nature of charge, its complexity and on what account the delay has occurred. If the delay is unexplained prejudice to the delinquent employee is writ

large on the face of it. It could also be seen as to how much the disciplinary authority is serious in pursuing the charges against its employee. It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be allowed to take their course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse considerations.”

62. The purpose of laying down the aforesaid proposition in the case of **State of Andhra Pradesh vs. N. Radhakrishna (Supra)** is that the Hon’ble Apex Court has clarified that the departmental proceeding is to be concluded without any unnecessary delay that too when the delinquent employee was put under suspension.

63. This Court after referring the factual aspect as also the legal position and adverting to the impugned order passed by the learned Tribunal, has found that in a situation, which has been confronted by the learned Tribunal that the respondent has been put under suspension on 27.09.2019, but the departmental proceeding was only initiated on serving the memorandum of charge on 07.03.2022 i.e after delay of more than two years and concluded on 04.06.2026, although the day when the learned Tribunal has passed the impugned order, the departmental proceeding was pending, since the final order of punishment was passed subsequent to the disposal of the order impugned herein.

64. The learned Tribunal, in the aforesaid circumstances and by applying the observation made by the Hon’ble Apex Court in the case of **Ajay Kumar Chaudhary vs. Union of India (Supra)** has considered the

validity of the order of suspension for a period of three months and as such, has quashed and set aside the order of suspension beyond the period of three months, holding the applicant is entitled for difference of arrears of salary (salary minus subsistence allowance).

65. This Court has also considered the things in different angle that the matter would have been different, if there is no cooperation on the part of the delinquent employee, but as the fact is being reflected that it is the writ petitioner, employer, who, for what reason, has continued with the departmental proceeding and has not furnished with the reason, as such, putting an employee under suspension and extended the period of suspension of sentence beyond three months without serving charge-sheet to the applicant (respondent herein) cannot be taken as a luxury at the cost of the delinquent employee.

66. It does mean that by putting an employee under suspension is not to be done, rather a rational approach is to be taken by putting the employee under suspension and serving the charge and initiate the departmental proceeding within a reasonable period.

67. Mr. Singh, learned Central Government Counsel has submitted that the aid of the Fundamental Rule is to be taken as available in Fundamental Rule-54.

68. Such liberty has already been granted by the learned Tribunal on the day when the order was passed, but when the Court has put a query whether the Appointing Authority has resorted the Rule 54 of the Fundamental Rule, he has submitted in all fairness that the aid of rule 54 has not been taken.

69. This Court, in view of the entirety of the facts and circumstances and taking into consideration in law laid down as referred in para-99 of the *L Chandra Kumar vs. Union of India (supra)* referred and quoted hereinabove and further taking into consideration the ratio rendered by the Hon'ble Apex Court in the case of *Ajay Kumar Choudhary Vs. Union of India* and also taking into consideration the Central Civil Services (Classification, Control & Appeal) Rules, 1965 particularly rule 10 (6) is of the view that there are no element of perversity and no error apparent on the face of the impugned order passed by the learned tribunal.

70. Accordingly, this Court discerns no infirmity in the impugned order dated 18.07.2025 passed by the learned Tribunal. The order rests upon sound reasoning and warrants no interference in exercise of writ jurisdiction. Consequently, the instant writ petition stands dismissed.

71. Pending I.A(s)., if any, also stands disposed of.

72. Before parting with the order, it is necessary to observe that since the order of punishment has already been passed on conclusion of the departmental proceeding and as such, the legality and propriety of the order of punishment, in case of challenge, will be looked into on its own merit without being prejudiced by the observation made in this order.

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

Date : 25.08.2026
A.F.R
Kamlesh/ Nishant/-