

**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
AT JODHPUR**

**S.B. Civil Writ Petition No.14863/2016**

Naru Lal Meghwal S/o Shri Modiram Meghwal, aged about 48 years,  
resident of Village godana, Post Gogla, Tehsil Jhadol, District Udaipur.

----Petitioner

Versus

1. The State of Rajasthan through the Secretary, Departmental of Revenue, Government of Rajasthan, Jaipur.
2. The District Collector (Land Records), Udaipur.

----Respondents

Alongwith connected matters

**(1) S.B. Civil Writ Petition No.13959/2018**

(Durgaram Paliwal Vs. State of Rajasthan & Ors.)

**(2) S.B. Civil Writ Petition No.16325/2021**

(Dr. Mohd. Imtiaz Vs. State of Rajasthan & Ors.)



**For Petitioner(s) :**

Sushil Solanki, Mr. Narpat Singh, Mr. Bharat Devasi &  
Dr. Harish Purohit assisted by with Ms. Vrinda Bhardwaj.

**For Respondent(s):**

Mr. S.S. Ladrecha, AAG assisted by Mr. D.S. Pidiyar, Mr. Mukesh Dave, AGC  
assisted by with Mr. Tanuj Jain & Mr. Vivek Sharma.

**HON'BLE MR. JUSTICE ARUN MONGA**

**ORDER**

**27/03/2025**

1. Suspension of a government servant alleged to be involved in criminal offences is legally viewed and meant as a preventive measure and not punitive. It serves the dual purpose of safeguarding public interest and preventing undue influence on the course of prosecution. Similarly, under criminal jurisprudence, pre-trial or as an under trial detention of a suspect is intended as a preventive action, not as punishment. We are concerned here with the former.

1.1<sup>1</sup>. While suspension, no doubt, is a crucial tool for maintaining discipline and transparency in Government services, it should be exercised with caution, since, in practical terms, suspension is contemptuously perceived. It shatters public image of a Government

<sup>1</sup> Few lines copied inverbatim from another judgment rendered by this very bench, related to suspension in SBCWP No.1788/2024

servant and causes stigma with seriously daunting effects. Even if the individual is later cleared of wrongdoing, the negative perception may not fully disappear. Thus, when such suspension is prolonged, it effectively becomes punitive in nature, especially when the individual is later acquitted. This results in irreversible civil and reputational harm, despite a finding of innocence. The reality is stark: regardless of the legal intent, suspension is widely perceived by society as an indicator of guilt, often causing irreparable damage to an individual's public standing and leading to deep personal and professional demoralization.



The Government servants in the State of Rajasthan have been categorized in four groups viz. (A) The State Services; (B) The Subordinate Services; (C) The Ministerial Services and (D) The Class IV Services. Petitioners in the above bunch of three petitions are from different classes of their respective services. They are before this Court, *inter alia*, alleging inaction / delay at the hands of the respondents, in proceeding further after they were suspended. While on the other hand they continue to be suspended from their respective posts.

3. For the sake of brevity, the respective summaries of the three petitions in hand are tabulated as below :

Case Name	Post	Reason for Suspension	Legal Grounds for Challenge	Suspension Order (Date)	Duration of Suspension (as of 27.03.2025)	Charge sheet Status
(SBCWP No.14863/2016) Naru Lal Meghwal vs. State of Rajasthan	Patwari	FIR u/s Section 7 of PC Act, was registered on 8.8.2012 and request was made on 04.03.2014 to grant prosecution sanction, and the same was granted on 22.05.2014 but petitioner was suspended on 27.07.2016, on the ground of granting	Suspension order does not explain why the petitioner was suspended belatedly after 4 years from registration of FIR and after 2 years of granting prosecution sanction	27.07.2016	8 years, 8 months	Still suspended Charge-sheet filed in the month of October, 2014, (status of trial – prosecution evidence)

Case Name	Post	Reason for Suspension	Legal Grounds for Challenge	Suspension Order (Date)	Duration of Suspension (as of 27.03.2025)	Charge sheet Status
		prosecution sanction.				
Durga Ram Paliwal vs. State of Rajasthan (SBCWP No.13959/2018)	Class IV employee	Petitioner was caught hed handed on 24.04.2018 and arrested on lodging FIR dated 25.04.2018 for the offences of PC Act, arrested, and joined his service again after releasing on bail on 26.04.2018, remained in custody for more than 48 hours	Arrested on 24.04.2018 at 3:45 pm and released on bail on 26.04.2018 at 12:30 pm and joined his duties at 1:30 pm same day. Hence remained in custody for less than 48 hours.	27.04.2018	6 years, 11 months	Still suspended, charge-sheet filed on 12.07.2019
Dr. Mohd. Imtiaz vs. State of Rajasthan (SBCWP No.16325/2021)	Block Chief Medical Officer (BCMO)	Petitioner was arrested for the offences of PCPNDT Act and IPC as found prima facie involved, FIR No.18/2016 dated 08.10.2016 was registered and he remains in custody for more than 48 hours, hence suspended. Subsequently, 3 more FIRs on the similar repeat offences were lodged.	Petitioner filed representation as per order passed in earlier writ petition No.10637/2021, but the same was rejected on 20.09.2021 stating another four FIRs under PCPNDT Act were registered during suspension period.	21.11.2016	8 years, 4 months, 6 days	(Still suspended) FIR No.18/2016 dated 08.10.2016 (charge-sheet filed on 08.02.2017) (status of trial-prosecution evidence) FIR No. 19/2017 (acquitted on 05.04.2025) FIR No. 03/2018 (charge-sheet filed on 27.02.2018) (status of trial-Prosecution evidence) & FIR No. 40/2018 (charge-sheet filed on 05.11.2018) (status of trial-framing of charges)



4. The succinct case of each of the petitioners has though been summed up in the table above, however, brief factual background may also be noticed qua each of them before proceeding further. The same is narrated hereinafter:-

#### 5. SBCWP No. 14863/2016

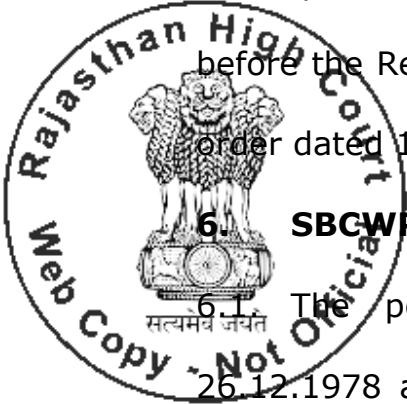
5.1. The petitioner, while serving as a Patwari, was charged under Section 7 of the Prevention of Corruption Act, 1958, with an FIR registered on 08.08.2012. The prosecution sanction was granted on 22.05.2014, and the petitioner was placed under suspension on

27.07.2016. The impugned suspension order though refers to the FIR lodged in 2012 and the prosecution sanction in 2014, but same does not disclose why the petitioner was suspended at such belated stage. The petitioner earlier also filed a writ petition bearing S.B. Civil Writ Petition No.9476/2016 challenging the suspension order, which was disposed of by this Court on 22.08.2016, giving the petitioner liberty to file representation. The petitioner then submitted a representation before the Respondent No.2, but the same was rejected vide impugned order dated 17.11.2016.

**6. SBCWP No. 13959/2018.**

The petitioner was appointed as a class-4 employee on 26.12.1978 and became permanent on 01.09.1983. He served in the Tehsil Office, Sojat. The petitioner was accused by one Rajmal Mewara in a complaint alleging that the petitioner demanded a bribe of Rs.10,000 to not alter a mutation entry in favor of Babulal. The Anti-Corruption Bureau (ACB) laid a trap and conducted an operation on 24.04.2018, during which the petitioner was caught red handed and arrested. An FIR No.98/2018 was registered on 25.04.2018 under various sections of the Prevention of Corruption Act, 1988, and IPC.

6.2. After the arrest, the petitioner applied for bail under Section 439 of Cr.P.C., which was granted on 26.04.2018. Following his release, he returned to his duties at the Tehsil Office at 1:30 PM on the same day, showing that he was not in custody for more than 48 hours. However, on 27.04.2018, the District Collector of Pali issued a suspension order against the petitioner, invoking Rule 13 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958. Petitioner's case is that he had no role in the alleged bribery incident, as he was a 4th class employee with no authority to alter mutation records. Moreover, the mutation entry in question had already been recorded in the revenue



records as of 2012, and the dispute between the complainant and Babulal was pending in civil court.

## **7. SBCWP No. 16325/2021**

7.1. The petitioner herein, a Medical Officer, seeks to challenge an order dated 20.09.2021 passed by respondent No.2, vide which his representation dated 18.08.2021 to revoke his suspension was rejected.

This representation was made pursuant to an order passed by this Court in writ petition No.10637/2021, asking the respondents to decide the representation within four weeks.

7.2. The petitioner was initially placed under suspension on 21.11.2016, after being arrested in connection with FIR No.18/2016 dated 08.10.2016 (charge-sheet filed on 08.02.2017; current status of

trial-prosecution evidence) for alleged offenses under various sections of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 ('PCPNDT Act'), 1994, and the IPC. Subsequently, three more FIRs were also lodged against the petitioner regarding PCPNDT Act and IPC i.e. FIR Nos.19/2017 (on completion of trial-acquitted on 05.04.2025), 03/2018 (charge-sheet filed on 27.02.2018; current status of trial-Prosecution evidence) & FIR no.40/2018 (charge-sheet filed on 05.11.2018; current status of trial-framing of charges). The petitioner claims that he was later released on bail in less than 48 hours of his arrest, which is though disputed by the department. While the criminal trial was/is going on, departmental proceedings were also initiated vide a memorandum, along with a charge sheet, under Rule 16 of the Rajasthan Civil Service (Classification, Control and Appeal) Rules, 1958 based on the same facts that form the basis of the criminal case.

7.3. The respondents initiated a departmental inquiry by appointing



an inquiry officer on 01.03.2021. The petitioner has been under suspension since 21.11.2016.

### **CONTENTIONS ON BEHALF OF THE PETITIONERS**

#### **8. SBCWP No.14863/2016**

8.1. Learned counsel for petitioner would argue that the impugned Order dated 17.11.2016 is illegal, arbitrary, and unreasonable thus violating Article 14 of the Constitution of India. The respondent rejected the representation solely based on the circular dated 07.07.2010, which is merely advisory in nature. Rule 13 of the Rules of 1958 does not provide for automatic suspension upon the grant of prosecution sanction. However, the District Collector did not consider this aspect appropriately, making the impugned order illegal and liable to be quashed and set aside.

8.2. The suspension of the petitioner by Order dated 27.07.2016 is also illegal. The order does not specify why the petitioner was placed under suspension. An FIR was registered against the petitioner under Section 7 of the Prevention of Corruption Act on 08.08.2012, and prosecution sanction was granted on 22.05.2014. Yet, after a delay of about four years from the date the FIR was lodged, the petitioner was suspended. This suspension is therefore illegal and should be quashed and set aside.

8.3. The petitioner further submits that before placing a government servant under suspension, the Competent Authority must consider the necessity of such an action. Suspension not only deprives the employer of utilizing the employee's services but also burdens public funds through the payment of subsistence allowance. It is the responsibility of the Competent Authority to examine the facts of each case to determine the desirability of suspension. In this case, the suspension order does



not explain why it was issued at this delayed stage, rendering the suspension illegal.

8.4. The suspension order was passed mechanically without considering the facts objectively or determining whether suspension was necessary, desirable, or inevitable. Therefore, the impugned suspension order is illegal and should be quashed and set aside.

8.5. The petitioner contends that the Competent Authority did not apply its mind before issuing the suspension order, as it lacks justification for the suspension. In the case of Prem Prakash Mathur Vs. State of Rajasthan, the court emphasized that while suspension is not a punishment, it can be more damaging than punishment, causing humiliation.



8.6. The petitioner submits that there is no allegation against him regarding attempting to delay the criminal trial or tampering with evidence. In fact, the suspension order was issued after a delay of about three years from the date of lodging the FIR, without any thoughtful consideration. Moreover, no departmental inquiry has been initiated against the petitioner. Therefore, the suspension is illegal and should be quashed and set aside.

## **9. SBCWP No. 13959/2018**

9.1. The impugned order dated 27.04.2018 is based on the Circular dated 07.07.2010, which mandates suspension for employees caught red-handed accepting bribes.

9.2. Although suspension is not legally considered as a punishment, it has a severe impact on the employee's dignity and reputation, causing humiliation both personally and professionally.

9.3. The Circular dated 07.07.2010 is an executive instruction, which can only fill gaps where there is no statutory legislation. However, Rule 13 of the Rajasthan Civil Services (Classification, Control, and Appeal)

Rules, 1958, provides specific provisions for suspension, and these executive instructions cannot override statutory law. Therefore, the impugned order, which is based on this circular, is liable to be quashed.

9.4. When passing a suspension order, the respondent authority must consider various factors, including whether the employee's continued presence in office would prejudice an inquiry, investigation, or trial, or whether it would undermine public interest. The authority did not take these factors into account when issuing the impugned suspension order, making it liable to be set aside.

9.5. The administrative instructions, like the circular dated 07-07-2010, cannot encroach upon statutory provisions. Rule 13 of the Rules of 1958 outlines the conditions for suspension, and the circular cannot mandate automatic suspension based on factors not stipulated by the law. Therefore, the order of suspension is unlawful and should be revoked.

9.6. Rule 13 of the Rules of 1958 provides that suspension is automatic only when a government servant is detained in custody for more than 48 hours. Since the petitioner was not detained for this duration, and the statutory provisions do not mandate suspension for being trapped red-handed or for prosecution under the Prevention of Corruption Act, the suspension order based on an administrative circular is invalid.

9.7. That the appointing authority must apply its mind before placing a government servant under suspension. The impugned suspension order fails to reflect such consideration, violating the very basic principles set forth.

## **10. SBCWP No. 16325/2021**

10.1. It is well-settled that suspension is not meant to penalize an employee but to achieve specific objectives, such as preventing the





employee from manipulating evidence or influencing witnesses during the domestic enquiry. A mere reading of the impugned order dated 20.09.2021 (Annex.1) clearly shows that the respondents failed to consider the representation in light of the aforesaid and denied reinstatement on impermissible grounds. Therefore, on this sole ground, the writ petition deserves to be allowed. He argues that parallel

principles

10.2. The impugned order also states that the respondents wrote to the Medical Council of Rajasthan seeking the cancellation of the petitioner's registration, although the petitioner still holds this registration. The Medical Council cannot cancel the petitioner's

registration unless he is convicted by a competent court. As the petitioner has been falsely implicated and has maintained good conduct since 2018, no prejudice would have been caused to the respondents if the suspension were revoked. The prolonged suspension has adversely affected the petitioner's life socially and personally, and thus, the writ petition deserves to be allowed.

### **CONTENTIONS ON BEHALF OF THE RESPONDENTS**

11. In opposition, the consistent position of learned counsel by the respondents, across all these petitions, is that this Court should refrain from interference, given the clear and comprehensive remedial framework already established through administrative circulars issued by the state government from time to time, especially circular dated 22.03.2023 (discussed in greater detail in subsequent part of instant order). Learned counsel for the respondents emphatically submit that both the Review Committee and the suspending authority will act strictly in accordance with law and the applicable circulars by examining the petitioners' cases and issuing appropriate administrative orders.



Accordingly, the petitions are liable to be dismissed on this ground alone, without the need for further intervention. Nonetheless, the specific contentions raised on merits in each case are addressed in the following paragraphs.

## **12. SBCWP No.14863/2016**

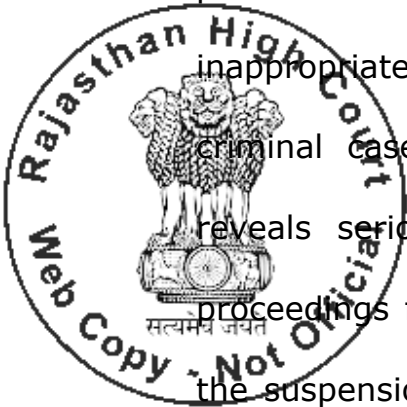
12.1. The suspension is based on serious corruption charges, with prima facie evidence and prosecution sanction granted. It was deemed inappropriate to allow the petitioner to discharge duties until the criminal case is resolved. The material produced by the petitioner reveals serious corruption charges, including being caught in trap proceedings for demanding a bribe. Given the severity of the charges, the suspension is justified. Failure to suspend would undermine public trust in the State machinery.

12.2. Suspension is a temporary measure to ensure transparency in investigations, not a punishment. If proven innocent, the petitioner will receive benefits for the suspension period. Suspension is an administrative function of the State Government, and this Court should not substitute its decision. The writ petition challenging the suspension is not maintainable and should be dismissed.

12.3. The petitioner has an alternative statutory remedy under the CCA Rules of 1958 by filing an appeal before the State Government. Bypassing this remedy and directly approaching the Court makes the writ petition not maintainable and subject to dismissal.

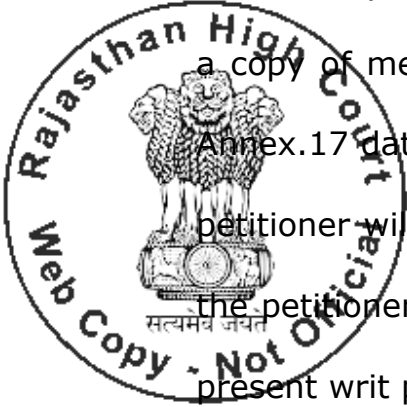
## **13. SBCWP No. 13959/2018**

13.1. The petitioner has been placed under suspension on account of being caught red handed while accepting bribe of Rs.10,000/- on 24.04.2018 while working on the post of Class IV Employee, Tehsil Office Sojat, District Pali. That there are serious charges of corruption against the petitioner and the petitioner was caught red handed while



accepting the bribe and therefore, looking to such serious charges against the petitioner, no interference is warranted in the order dated 27.04.2018 placing the petitioner under suspension.

13.2. It is submitted that against the order dated 27.04.2018, the petitioner is having an alternative remedy in the form of filing appeal under rule 22 of the Rules of 1958. As a matter of fact, the petitioner has already availed the said alternative statutory remedy of appeal and a copy of memo of appeal has been annexed with the writ petition as Annex.17 dated 10.05.2018. It is submitted that the appeal filed by the petitioner will be considered in accordance with law. In view of the fact the petitioner has already availed the alternative remedy of appeal, the present writ petition filed by the petitioner is not maintainable and same is liable to be dismissed on this count alone.



#### **14. SBCWP No. 16325/2021**

14.1. While serving as Block Chief Medical Officer, Balesar, FIR No. 18/2016 was lodged against the petitioner for offences under the PCPNDT Act, 1994, and IPC sections. The petitioner was taken into custody on 08.10.2016. After remaining in custody for more than 48 hours, the petitioner was suspended on 21.11.2016 by invoking Rule 13 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958. A challan was filed against the petitioner on 08.02.2017. A proposal for disciplinary action was received by the respondents' department on 09.06.2020. After reviewing the proposal, the memorandum of charges was issued against the petitioner under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 on 06.08.2020. The petitioner was asked to submit his written statement within 15 days, and the petitioner submitted a reply on 04.11.2020.

14.2. Respondent No.1 also sent a letter on 16.03.2021 to the Rajasthan Medical Council regarding the cancellation of the petitioner's registration. During the suspension period, FIRs Nos. 19/2017, 03/2018, and 40/2018 were also lodged against the petitioner for PCPNDT Act violations.

14.3. After reviewing the response, which was found unsatisfactory, it was decided to conduct a detailed departmental enquiry. On 01.03.2021, Commissioner IV Departmental Inquiry was appointed as the inquiry officer.

14.4. Based on the facts, there has been no violation of the petitioner's fundamental rights or any statutory provision, thus this writ petition is liable to be dismissed, and the petitioner is not entitled to invoke the extraordinary jurisdiction of this court under Article 226 of the Indian Constitution.

### **DISCUSSION AND ANALYSIS**

15. I shall now proceed to render my opinion by recording reasons thereof and after discussing and analysing merits and demerits of the rival contentions *vis-à-vis* applicable law in the succeeding part hereinafter.

#### **16. First the law.**

16.1. The controversy herein centers on the scope and breadth of the core legal issue concerning the continued suspension of a government servant pending his investigation or trial in connection with a criminal offence. In State of Rajasthan, such a suspension order is passed under the Rajasthan Civil Services (Classification, Control, and Appeal) Rules, 1958 (CCA Rules- for short). Rule 13 thereof (similar to Rule 10 of CCA of UOI), being relevant, is reproduced hereinbelow:-

**“13. Suspension :-**



**(1) The Appointing Authority or any authority to which it is subordinate or any other authority empowered by the Government in that behalf may place a Government servant under suspension.**

(a) Where a disciplinary proceedings against him is contemplated or is pending,  
or

**(b) Where a case against him in respect of any criminal offence is under investigation or trial:**

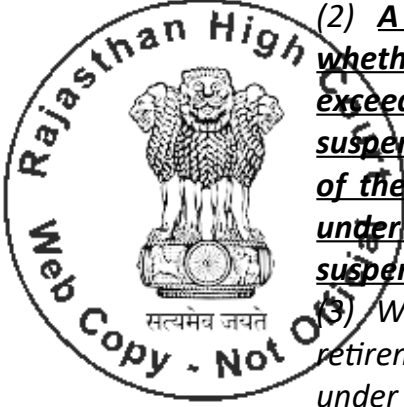
Provided that where the order of suspension is made by an authority lower than the Appointing Authority, such authority shall forthwith report to the Appointing Authority the circumstances in which the order was made.

**(2) A Government Servant who is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours shall be deemed to have been suspended with effect from the date of detention, by an order of the Authority competent to place a Government Servant under suspension under sub-rule (1) and shall remain under suspension until further orders.**

Where a penalty of dismissal, removal or compulsory retirement from Service imposed upon a Government Servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continue in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government Servant is set aside or declared or rendered void in consequence or by a decision of a Court of Law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on allegations in which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government Servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

**(5) Any order of suspension made or deemed to have been made under this rule may at any time be revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.**



16.2. Rule 13(1)(a) of CCA Rules thus grants the appointing authority or a competent authority the power to suspend an employee when criminal proceedings are pending, be it at FIR stage or the trial arising there from.

16.3. The remedy against suspension is twofold as is borne out from the Rule 22 and extract of Rule 34 which are as below :-

**"22. Appeals against orders of suspension-**

*-A Government Servant may appeal against an order of suspension to the authority to which the authority which made or is deemed to have made the order, is immediately subordinate."*

**"34. Governor's power to review:-**

*Notwithstanding anything contained in these rules, the Governor may, on his own motion or otherwise, after calling for the records of these case, review any order which is made or appealable under these rules or the rules repealed by rule 35 and, after consultation with the Commission where such consultation is necessary:-*

- (a) confirm, modify or set aside the order;*
  - (b) impose any penalty or set aside, reduce, confirm or enhance the penalty imposed by the order;*
  - (c) remit the case to the authority which made the order or to any other authority directing such further action or inquiry as he considers proper in the circumstances of the case, or*
  - (d) Pass such other orders as he deems fit;*
- X-X-X-X-X"*



17. Analysis of position of law in other countries on this issue reveals that, across global jurisdictions (UK, USA, Australia, Canada, France), suspension is a universal administrative tool, not a punishment, designed to protect public interest rather than penalize the employee. The presumption of innocence is a shared principle, yet its practical application varies. However, the major difference is, unlike in India, full pay during suspension is a norm (except in rare cases in USA), reducing its punitive sting, though, of course, prolonged duration remains a flashpoint everywhere. In fact, the USA stands out for its strong constitutional due process protections, requiring pre-suspension hearings in some cases, unlike the UK and Australia, where employer discretion is broader, tempered by fairness principles. France's rigid time-bound suspension contrasts with the more flexible, case-by-case approach in other countries, offering greater predictability but less adaptability. The perception of collateral punishment is thus most pronounced in a system with judicial delays i.e. India, where suspension

can stretch for years, mimicking a penalty without conviction with financial cut on salary varying from 25% to 50%, as the case may be.

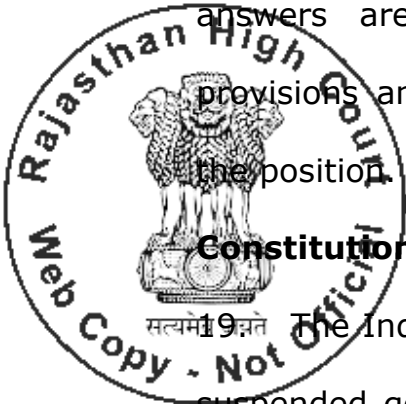
18. Let us now analyze the Law in India governing the issue of whether a government servant accused in an FIR, facing trial in a criminal proceeding, or awaiting prosecution upon administrative sanction can remain suspended from service until acquitted—and whether such suspension constitutes collateral punishment. The

answers are provided in the constitutional framework, statutory provisions and judicial precedents providing a comprehensive view of the position.

### **Constitutional Framework**

The Indian Constitution is the bedrock which emanates rights of a suspended government servant. Article 14 ensures equality before the law and equal protection, requiring that administrative actions like suspension be reasonable, non-arbitrary, and proportionate. Article 21 guarantees the right to life and personal liberty, interpreted expansively by the Supreme Court to include the right to livelihood as integral part thereof. Prolonged suspension, especially without pay beyond subsistence allowance, would infringe this right by depriving the employee of a dignified existence. The presumption of innocence, though not explicitly enshrined, is a foundational principle of Indian criminal jurisprudence and is duly reinforced by Article 21. Moving further, Article 311 affords procedural safeguards to civil servants, stipulating that they cannot be dismissed or reduced in rank except after an inquiry with a reasonable opportunity to be heard. While suspension is not explicitly covered, its prolonged use may indirectly undermine these protections if it mimics punishment without due process.

### **Statutory Provisions**



20. The suspension of a government servant in State of Rajasthan is governed by Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958. Rule 13 thereof empowers the competent authority to suspend a government servant if a disciplinary proceeding is contemplated or pending or if the employee is under investigation, inquiry, or trial for a criminal offence. Relevant has already been extracted, supra. Likewise analogous Rules exist in Union of India namely Central Civil Services (Classification, Control and Appeal) Rules, 1965.

Rule 10 thereof.

### Judicial Evolution: Restrictions on Indefinite Suspension

21. Over the years, Supreme Court has intervened to curb the misuse of suspension powers, particularly in cases where employees remain suspended for prolonged periods due to delayed criminal trials. In

**Khem Chand v. Union of India (1958)**<sup>2</sup> the Supreme Court held that a government servant has a right to be heard before facing adverse action, thus laying the foundation for the principles of natural justice in service law.

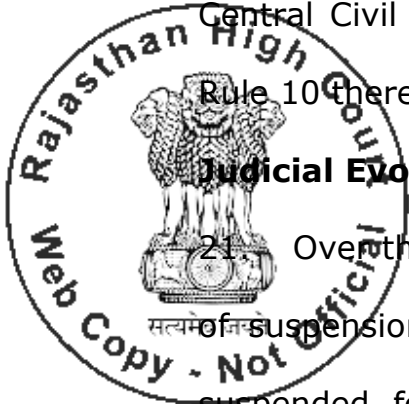
21.1. In **O.P. Gupta v. Union of India(1987)**<sup>3</sup> the Supreme Court ruled that prolonged suspension cannot be justified unless the trial progresses in a timely manner. Likewise in **State of Orissa v. Bimal Kumar Mohanty (1994)**<sup>4</sup> the Supreme Court held that suspension must be reviewed periodically and cannot be continued indefinitely without justification. In **Union of India v. Dipak Mali (2010)**<sup>5</sup> the Supreme Court held that mere registration of an FIR does not automatically justify suspension. It was held that the employer must assess whether the nature of the allegations affects the employee's ability to function.

2 AIR 1958 SC 300

3 (1987) 4 SCC 328

4 (1994) 4 SCC 126

5 (2010) 2 SCC 222





21.2. In **Ajay Kumar Choudhary v. Union of India (2015)**<sup>6</sup>

Lamenting on the plight of a government servant suspended due to criminal proceedings, the Supreme Court ruled that if a charge sheet is not filed within three months, the suspension should not be extended unless justified by special reasons. Prolonged suspension amounts to a "punitive" action, violating constitutional principles of fairness. The suspension must be reviewed periodically, ensuring that it does not become an arbitrary punishment. For ready reference the relevant

extract is as 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.*

*12. Protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his department, has to endure this excruciation even before he is formally charged with some misdemeanour, indiscretion or offence. His torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is, to determine his innocence or iniquity. Much too often this has now become an accompaniment to retirement. Indubitably, the sophist will nimbly counter that our Constitution does not explicitly guarantee either the right to a speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal ground norms, are inextricable tenets of Common Law Jurisprudence, antedating even the Magna Carta of 1215, which assures that — "We will sell to no man, we will not deny or defer to any man either justice or right." In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial.*

*13. Article 12 of the Universal Declaration of Human Rights, 1948 assures that:*

*"12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the*

right to the protection of the law against such interference or attacks.”

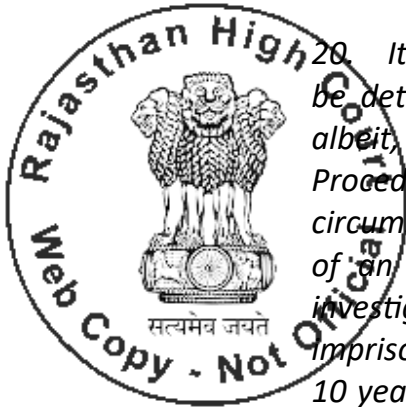
14. More recently, the European Convention on Human Rights in Article 6(1) promises that:

“6. (1) in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time....”

and in its second sub-article that:

“6. (2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”

15. to 19. xxx xxx xxx xxx



20. 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 Code of Criminal Procedure, 1973 contains a new proviso which has the effect of circumscribing the power of the Magistrate to authorise detention of an accused person beyond a 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 v. State of Bihar [(1986) 4 SCC 481 : 1986 SCC (Cri) 511] and more so of the Constitution Bench in Antulay [(1992) 1 SCC 225 : 1992 SCC (Cri) 93], we are spurred to extrapolate the quintessence of the proviso to Section 167(2) Cr.P.C., 1973 to moderate suspension orders in cases of departmental/disciplinary enquiries 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/charge-sheet 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.

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.”*

(emphasis supplied)

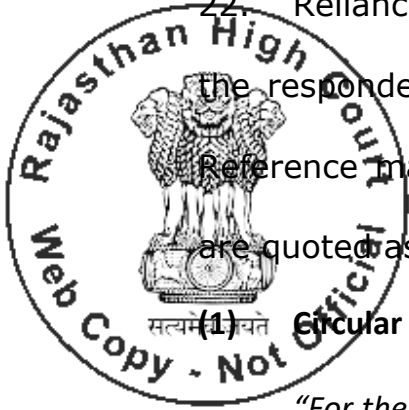
### **Administrative Circulars / Instructions**

22. Reliance has since been heavily placed by the learned counsels for

the respondents on administrative circulars issued from time to time.

Reference may first be had to the same, translated versions of which

are quoted as below :-



(1) **Circular dated 19.04.1999**

*“For the purpose of reviewing cases of suspension of employees of the Subordinate Service, Ministerial Service, and Class IV Employee Service cadres, and cases in which charge sheets have not been issued, and for taking decisions regarding their continuation of suspension or reinstatement, Hon’ble the Governor hereby constitutes a committee with the following members:-*

1. Minister of the concerned department Chairman
2. Concerned Secretary of the Administrative Department Member
3. Head of the Department Member Secretary

The Head of the Department will consider the recommendations of the Review Committee and take action in each case based on its merits.

*The administrative department for the aforementioned committee will be the Personnel (K-3) Department.”*

(2) **Circular dated 23.06.2000**

*“In continuation of this department order dated 19.4.99, the approval of His Excellency the Governor is hereby granted for the addition of the following lines at the end of the committee constituted for reviewing cases of suspension of employees of the Subordinate Service, Ministerial Service, and Class IV Employee Service cadres, and cases in which charge sheets have not been issued, and for taking decisions regarding their suspension or reinstatement:*

- (1) The committee will meet at least once every 3 months.
- (2) The Head of the Department will take appropriate action based on the recommendation of the Review Committee.
- (3) *Administrative Reforms Department's Order No. P.6 (23) Pra.Su./Anu.3/93 dated 16.6.93 is hereby rescinded.”*

(3) **Circular dated 28.07.2008**

*“In supersession of the order dated 08.06.99 regarding the review of cases of government servants suspended by the State Government, due to registration of criminal cases by ACB, the following State Level Committee is hereby constituted by order of His Excellency the Governor:-*

- |   |                  |
|---|------------------|
| 1. Chief Secretary  | Chairman         |
| 2. Director General, Anti-Corruption Bureau, Jaipur               | Member           |
| 3. Principal Secretary of the concerned Administrative Department | Member           |
| 4. Principal Secretary, Personnel                                 | Member Secretary |

The committee will review cases of suspension exceeding three years.

The cases of officers of the State Service who have been suspended for more than three years in criminal cases registered by the Anti-Corruption Bureau will be reviewed by the committee on the basis of the merits of each case. The period of three years will be calculated from the date of presentation of the charge sheet in the competent court.

The committee will meet at least once every 6 months and will submit its recommendations to the State Government (Personnel Department). The State Government will take appropriate decisions based on the facts of each case.

The administrative department for the aforementioned committee will be the Personnel (K-3/Complaints) Department.”

**(4) Circular dated 22.03.2023**

*“Subject: Instructions regarding suspension and reinstatement of public servants in criminal cases.*

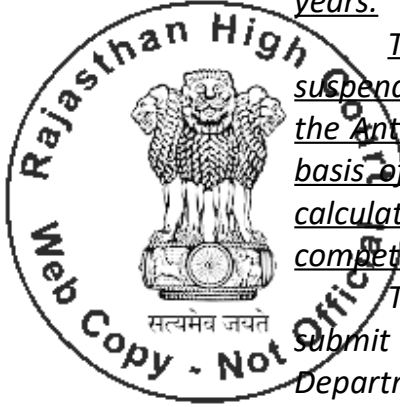
*Under the provisions of Rule 13 of Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958, in relation to suspension of public servants in criminal cases and reinstatement from suspension, new guidelines are provided as follows, superseding the instructions issued by this department in Circular No. P. 2 (157) Personnel / A-3/97 Jaipur dated 10.08.2001 and dated 07.07.2010:-*

**A. Suspension and Reinstatement in Criminal Cases Registered by the Anti-Corruption Bureau (ACB) :**

1. *If a public servant is caught red-handed while accepting a bribe by the Anti-Corruption Bureau, or is kept in police/judicial custody for more than 48 hours in any other case related to corruption, the concerned public servant shall be immediately suspended.*

*In such cases involving public servants, once the prosecution sanction is issued and the challan is filed before the competent court, the matter shall be placed before the Review Committee constituted for considering reinstatement from suspension.*

2. *In other cases related to corruption (excluding being caught red-handed while accepting a bribe), such as cases related to disproportionate assets or cases under the Prevention of Money Laundering Act, if the public servant has not been suspended earlier, then upon the issuance of prosecution sanction, the competent authority shall examine the case based on the facts, nature and*



seriousness of the allegations, the expectation of the State Government for appropriate conduct from the public servant, the dignity of the post, and the possibility of influencing prosecution/investigation or evidence, and take an appropriate decision regarding the suspension of the public servant.

If the public servant has been suspended in such a case, then upon the filing of the challan in the competent court, the case of the public servant shall be placed before the Review Committee for consideration regarding reinstatement from suspension.

**B. Suspension and Reinstatement in Heinous and Grievous Criminal Cases Registered by the Police:**

1. In criminal cases involving heinous and grievous offenses such as murder, rape, dowry death, human trafficking, female foeticide, drug trafficking, use of unfair means in public examinations, and moral turpitude, if any public servant is arrested and kept in police/judicial custody for more than 48 hours, then such public servant shall be immediately suspended.

In such cases involving public servants, if the challan has already been filed before the competent court, then their case shall be placed before the Review Committee constituted for considering reinstatement from suspension.

2. In cases involving heinous and grievous offenses such as murder, rape, dowry death, human trafficking, female foeticide, drug trafficking, use of unfair means in public examinations, and moral turpitude, if the public servant has not been arrested or the duration of police/judicial custody is 48 hours or less, then the competent authority shall examine the case in light of the facts of the case, nature and seriousness of the allegations, the expectation of the State Government for appropriate conduct from the public servant, the dignity of the post held, and the possibility of influencing prosecution/investigation or tampering with evidence, and take an appropriate decision regarding the suspension of the public servant.

If the public servant has been suspended in such a case, then upon filing of the challan in the competent court, the case of the public servant shall be placed before the Review Committee for consideration regarding reinstatement from suspension.

**C. Suspension and Reinstatement in Criminal Cases Registered by the Police Related to Embezzlement, Misuse of Position Causing Loss to the State Treasury, or Other Offenses of Abuse of Official Position:**

1. In criminal cases related to embezzlement, misuse of position causing loss to the state treasury, or other offenses involving abuse of official position, if any public servant is arrested and kept in police or judicial custody for more than 48 hours, such public servant shall be immediately suspended.

In such cases involving public servants, if the challan has been filed before the competent court, the matter shall be placed before the Review Committee for consideration regarding reinstatement from suspension.

2. In criminal cases related to embezzlement, misuse of position causing loss to the state treasury, or other offenses involving abuse of official position, if the public servant has not been arrested, or if the



*duration of police/judicial custody is 48 hours or less, the competent authority shall examine the case based on the facts of the case, the nature and seriousness of the allegations, the expectation of the State Government for appropriate conduct from the public servant, the dignity of the post held, and the possibility of influencing prosecution/investigation or tampering with evidence, and shall take an appropriate decision regarding the suspension of the public servant.*

*If the public servant has already been suspended in such a case, then upon filing of the challan in the competent court, the matter shall be placed before the Review Committee for consideration regarding reinstatement from suspension.*

**D. Suspension and Reinstatement in Other Criminal Cases Registered by the Police (Cases other than those mentioned in Points B and C) :**

*In criminal cases registered by the police (other than those mentioned in Points B and C), if a public servant is arrested and kept in police or judicial custody for more than 48 hours, then such public servant shall be immediately suspended.*

*In criminal cases registered by the police (other than those mentioned in Points B and C), if a public servant has not been arrested, or if the duration of police or judicial custody is 48 hours or less, then the competent authority shall examine the case in light of the facts, nature and seriousness of the allegations, the State Government's expectations of proper conduct from the public servant, the dignity of the post, and the possibility of influencing prosecution/investigation or tampering with evidence, and take an appropriate decision regarding suspension.*

*In such cases, suspended public servants may be reinstated at any time by the competent authority under Rule 13(5) after considering the facts of the case, the nature and seriousness of the allegations, the possibility of influencing prosecution/ investigation or evidence, and the current status of the case. There is no requirement to place such cases before the Review Committee for consideration regarding reinstatement from suspension.*

**General Instructions:**

1. The Review Committee shall assess the merits and demerits of each case by considering the facts, nature and seriousness of the allegations, the possibility of influencing prosecution/investigation or tampering with evidence, and the current status of the case, and shall provide its recommendation regarding either revoking the suspension or keeping it in force. After reinstatement based on the Committee's recommendation, the concerned department shall ensure the posting of the public servant to a position of low public interaction and lesser importance, preferably at a location that is different and distant from the place of incident.
2. In criminal cases eligible for review by the Review Committee, if the investigating agency fails to complete the investigation and submit the challan before the competent court or forward the prosecution proposal to the competent authority even after a period of two years, then such cases of suspended public servants shall also



be placed before the Review Committee for consideration of reinstatement.

3. The Review Committee meeting shall be held once every four months without fail.

4. In criminal cases, if suspended public servants file a petition/appeal against the suspension order before the Hon'ble Court, and the Hon'ble Court directs the competent authority to examine the case and issue a reasoned order in accordance with the service rules, then the competent authority shall conduct a merit-based assessment of the case. This shall include a review of the facts, nature and seriousness of the allegations, the possibility of influencing prosecution/investigation or tampering with evidence, and the current status of the case, and accordingly issue an appropriate speaking/reasoned order. Such cases shall not be placed before the Review Committee.

5. If a public servant is acquitted by the trial court in a criminal case, then such public servant should normally be reinstated from suspension, even if the State Government has filed an appeal against the order of the Hon'ble Court. In such cases, the recommendation of the Review Committee shall not be required.

6. In criminal cases, if the competent authority decides to deny prosecution against a public servant, then in such cases, the suspension shall be revoked, and reinstatement orders shall be issued.

7. If a public servant is kept in police or judicial custody for more than 48 hours, then the suspension order shall be issued under Rule 13(2). In all other cases, the suspension order shall be issued under Rule 13(1)."

(emphasis supplied)



23. In the light of circulars, *ibid*, the powers of the state as an employer to suspend government servant involved in criminal proceedings are to be exercised in public interest vis-à-vis the rights of a suspended government servant; and the balance between administrative discipline and the principle of the presumption of innocence till proved guilty. Let us delve on it in the succeeding part by exploring the aforesaid circulars, particularly the last of the circulars i.e. dated 22.03.2023 which more or less covers the previous ones and supersedes them, its legal dimensions and underlying reasoning.

24. In fact, at the very outset, I may like to observe that perusal of the circular dated 22.03.2023 reveals that it is in supersession of earlier circulars dated 10.08.2001 and 07.07.2010. Thus, after issuance of circular dated 22.02.2023, the earlier two superseded circulars cannot be the cause of suspension or continuation of suspension, if ordered

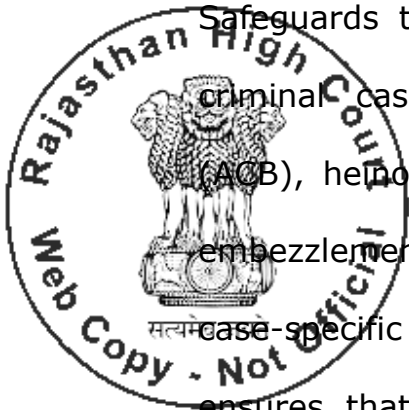
already. A fresh decision has to be taken in light of circular dated 20.03.2023. Its provisions categorised from A to D, along with general instructions, offer abundant protection and fairness to the suspended government servants who are facing criminal proceedings, but only if it is implemented in its full earnest with the same intent as it were framed. Let us see how.

24.1. Circular dated 22.03.2023 supra, rather envisages structured

Safeguards through Categorization of offences. The circular classifies criminal cases into distinct categories—those involving corruption (ACB), heinous crimes (like murder or rape), economic offenses (like embezzlement), and all other general criminal cases so as to adopt a case-specific approach instead of a one-size-fits-all suspension rule. It ensures that not every accusation leads to automatic or prolonged suspension. Instead, it calls for fact-based assessments and review mechanisms, which prevent unjust or arbitrary action against an employee.

24.2. Furthermore, formation and establishment of a Review Committee is mandatory. Its regular convening every four months is meant to keep the suspending authority under check and to remain accountable to the Review Committee. It thus provides oversight into the suspension and reinstatement process by making sure that suspended officials are not left in indefinite limbo. The Review Committee must, therefore, assess cases periodically, considering factors such as the seriousness of the offense, the risk of tampering with evidence, and the current status of the case to avoid/prevent prolonged and prejudicial suspension without reasoned justification.

24.3. The circular also encourages reinstatement if there is a delay in Investigation or trial. Also it mandates that if a public servant is acquitted by the trial court, reinstatement is to be done as a norm, even if an appeal is pending. The intent thus is to prevent the misuse of

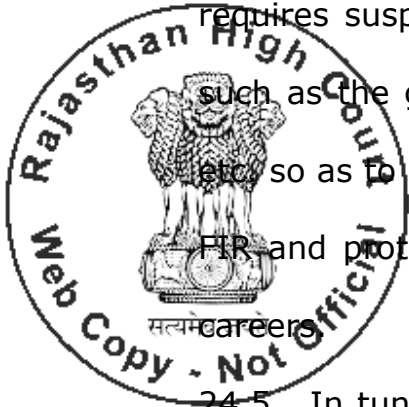




suspension as a punitive measure in cases where investigations are slow, politically motivated, or baseless. Underlying presumption being of innocence, especially after acquittal.

24.4. The circular also carves out clear Distinction Between arrest-based and allegation-based Suspension. It ensures that mere registration of an FIR is not enough for suspension in many cases unless the public servant is arrested or held for over 48 hours. It

requires suspension decisions to be based on objective considerations, such as the gravity of the offense, the potential to influence evidence, etc. so as to rule out any automatic victimization upon registration of an FIR, and protects against false or malicious complaints meant to derail careers.



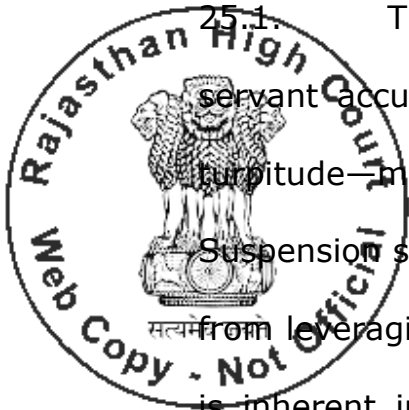
24.5. In tune with Supreme court judgment in Ajay Chaudhary versus Union of India (2015), in case criminal proceedings are still pending reinstated officials are to be posted in less sensitive and low-public-interaction positions, and preferably not at the same location where the alleged incident occurred, maintaining a balance qua the integrity of any ongoing trial or investigation and allowing officials to resume their service with dignity.

24.6. Furthermore, circular mandates that if the competent authority decides not to grant sanction for prosecution, the suspension must be revoked so as to provide immediate relief from prolonged stigma and loss of service benefits when the case is deemed weak or unworthy of prosecution.

### **CONCLUSION**

25. Two questions thus arise i.e. first, whether a government servant, either accused in an FIR or an under trial in a pending criminal proceeding or proposed to be prosecuted upon grant of administrative sanction for prosecution, can continue to be suspended from service until the conclusion of trial till he is acquitted ? Second, does such a

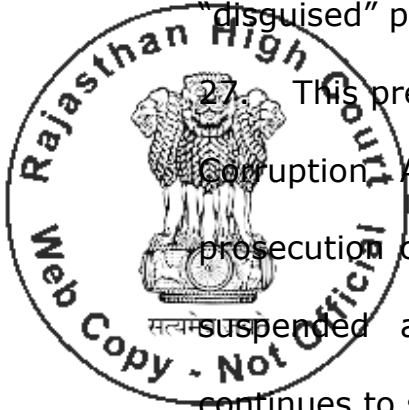
suspension, when prolonged due to delay not attributable to the suspended government servant, constitute a collateral punishment, imposed solely on the state's harboring a suspicion that the accused government servant will ultimately be convicted in the pending criminal proceedings? In light of the circulars, *ibid*, and the judicial precedents, the answer to first question is in negative, while it is in affirmative to the second.



25. There is no quibble about the proposition that a government servant accused of serious offenses—say, corruption, fraud, or moral turpitude—may erode public confidence if allowed to continue in service. Suspension serves as a precautionary measure to prevent the employee from leveraging their position to obstruct justice. The power to suspend is inherent in the employer's disciplinary authority, particularly when the employee's continuance in office could prejudice the investigation or trial. The state has a legitimate interest in maintaining the integrity of public administration. The pendency of a trial, coupled with the gravity of the charges, justifies keeping the employee out of active duty until the cloud of suspicion dissipates. Seen from that angle, the state may be right to argue that acquittal is the only definitive proof of innocence in such cases, and until that threshold is met, suspension is warranted. But, not quite so in every case.

26. However, on the flip side, prolonged suspension raises serious concerns about fairness, equity, and the presumption of innocence—a cornerstone of criminal jurisprudence enshrined in Article 11 of the Universal Declaration of Human Rights and reflected in common law systems. Suspension, though not a punishment in theory, has punitive consequences in practice: loss of income (beyond subsistence allowance), stagnation of career, and social stigma. When trials drag on for years—a common reality in overburdened judicial system in India—suspension becomes a *de facto* penalty imposed without a finding of

guilt. The employer state often suspends an employee not because guilt is established but because it harbors a suspicion of eventual conviction. This approach risks inverting the burden of proof: instead of the prosecution proving guilt beyond reasonable doubt, the employee must endure suspension until they prove their innocence through acquittal. Legally, suspension is an interim measure, not a penalty, is the settled position, yet, when prolonged, its effects mirror those of punishment or "disguised" punishment.



27. This predicament is more evident in cases under the Prevention of Corruption Act, where delays in trials or granting sanction for prosecution can extend suspension indefinitely. The employee is left in suspended animation, neither convicted nor exonerated, but yet continues to suffer the suspension. Such a scenario offends the principle of 'audi alteram partem' (hear the other side) and the maxim 'nemo iudex in causa sua' (no one should be a judge in their own case), as the employer state unilaterally imposes a sanction without any judicial oversight.

28. In light of the above discussion and Supreme Court judgments, it is deemed appropriate that following guidelines are culled out to be borne in mind by the competent authority/review committee, as the case may be, before ordering suspension, for its further continuation or revocation thereof depending upon case to case :

**Guidelines for Suspension of Government Servants Due to Criminal Proceedings:**

**I. General Principles -**

Suspension due to criminal proceedings should be based on objective evaluation, not mere allegations. Innocence is presumed until proven guilty—suspension should not serve as punishment. Suspension must serve the public interest; an FIR alone isn't sufficient ground. Likewise grant of prosecution sanction also must be not, per se, be a mechanical reason to suspend, but there must be a meeting of mind.

**II. Grounds for Suspension -**

Suspension may be justified if charges involve corruption, financial misconduct, security threats, or moral turpitude. Continued service may hinder investigation or trial. The employee could influence witnesses or tamper with evidence. The offense undermines public trust in the institution.

**III. Time Limits on Suspension-**

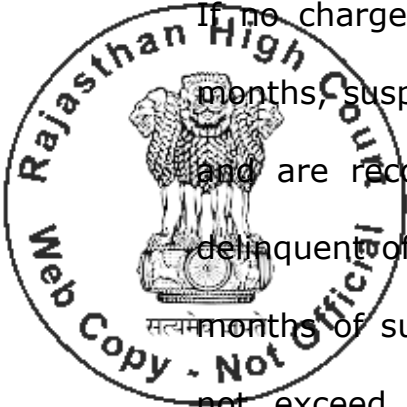
If no charge sheet is filed by the prosecution in trial court within 3 months, suspension shall not be extended unless special reasons exist and are recorded by the competent authority and conveyed to the delinquent official. In case charge sheet is filed in trial court within 3 months of suspension, then the period of suspension should normally not exceed 2 years unless trial is close to completion and it is specifically so noted on the administrative file by the competent authority and such reasons are conveyed in writing to the suspended official. If criminal trial is delayed and exceeds 3 years, the competent authority must consider alternatives like transfer to a non-sensitive post, by revoking suspension. Alternatively, specific reasons be again recorded in writing justifying further continuation of suspension and same be conveyed to the suspended government servant.

**IV. Periodic Review**

Suspension must be reviewed every 4 months by the review committee and/or the competent authority under Rule 13 (5) of the CCA Rules, 1958. Review must assess trial progress, continued need for suspension, and possible alternatives. Continuation must be justified with written reasons.

**V. Alternatives to Indefinite Suspension-**

Instead of prolonged suspension, the competent authority must consider Transfer to a non-sensitive role as per Supreme Court Judgment in Ajay Chaudhary vs UOI.



**VI. Distinction between Serious vs. Minor Offenses**

Minor offenses (e.g., typically triable by Magistrates but not all) don't justify suspension. However, serious offenses (e.g., Sessions trials or other such crimes against society or corruption, fraud, harassment etc.) may require immediate action. The decision to suspend must reflect the nature and impact of the offense.

29. In addition to the guidelines mentioned above, this Court deems it

appropriate to exercise its writ jurisdiction by issuing a writ of mandamus to the State of Rajasthan, through the Secretary, Department of Personnel, to ensure that all competent authorities vested with the power to suspend government servants adhere to a reasonable timeline for taking further action following a suspension order passed due to pending criminal proceedings. It is thus specifically directed that if a challan/charge sheet is not filed before the trial court within 90 days from the date of suspension order, the suspending authority, upon being approached by the suspended official, must decide under Rule 13(5) of CCA Rules whether to continue or revoke the suspension by providing written reasons to the suspended employee. If three years have elapsed since the challan/charge sheet was filed and the trial remains pending, the competent authority must reconsider the necessity of continued suspension and convey reasons in writing. Failure to comply with the specified timelines, as directed, would accord the suspended government servant an indefeasible right to seek revocation of suspension by filing an appeal under Rule 22 of CCA Rules. Further, it is directed that any appeal filed under Rule 22 must be decided by the appellate authority within 30 days of receipt; if not, reasons for the delay must be recorded in writing and communicated to the suspended government servant.

30. It is further directed that the Government of Rajasthan, i.e. through The Secretary Personnel, shall take appropriate steps to

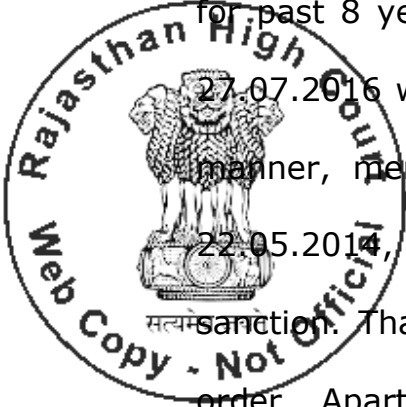


sensitize the concerned authorities of State Government in this behalf and also convey the aforesaid mandamus as well as Guidelines to them for compliance. Registry of this Court is directed to e-mail a copy of the instant order/judgment to the Chief Secretary as well as The Secretary Personnel of the State.

31. **RELIEF**

31.1. SBCWP No.14863/2016:- Petitioner has been under suspension for past 8 years and 8 months. It appears that he was suspended on 27.07.2016 without due application of mind, belatedly, in a mechanical manner, merely on the ground of grant of prosecution sanction on 22.05.2014 that too, after more than 2 years of grant of prosecution sanction. That in itself is a sufficient ground to quash the suspension order. Apart therefrom, as an upshot of discussion and analysis recorded in the preceding paragraphs, the impugned appellate order dated 17.11.2016, passed on the basis of circular dated 07.07.2010 (since superseded) and pursuant thereto his continuous suspension is even otherwise not sustainable. Accordingly, the impugned suspension order dated 27.07.2016 and subsequent rejection order dated 17.11.2016 are both quashed with a direction to the respondents to provide him a posting anywhere in the state, within 30 days of him approaching the respondents with web print of the instant order, in terms of the guidelines, supra.

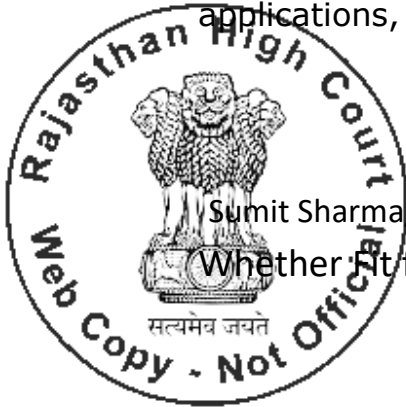
31.2. In SBCWP No.13959/2018; given the gravity of offence (caught red handed) and in SBCWP No.16325/2021; gravity of offence coupled with multiple FIRs (currently three, as in fourth he stands acquitted) the respondents are directed to ascertain the stage of their respective trials and then consider the possibility of revoking the suspension under Rule 13(5) of the CCA Rules and post them anywhere in the state to ensure that they do not influence the ongoing trials in any manner. Needful be done within six weeks of the petitioners approaching the respondents



with web print of the instant order. Alternatively, specific reasons in writing be conveyed to them, including the opinion of the review committee, for further extension of their suspension with liberty to them to seek remedy to assail the said reasons, in any manner they like in accordance with law, including filing an appeal under Rule 22 of the CCA Rules.

32. Disposed of with the above observations and guidelines. Pending applications, if any, also stand disposed of.

**(ARUN MONGA),J**



Sumit Sharma/-

Whether it for Reporting:- Yes / No