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HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 360 of 2024

1 - State of Chhattisgarh Through Secretary, Department of General Administration, Secretariate, Mahanadi Bhawan, P.S. And Post Rakhi, New Raipur, District Raipur (C.G.)

2 - Collector And District Magistrate Korba District Korba (C.G.)

... Appellants

versus

Shivam Sahay Chouhan S/o Late Shivram Sahay Chouhan Aged About 30 Years R/o Lig - 197, Shivji Nagar, Korba, Tehsil And District Korba (C.G.)

... Respondent

(Cause-title taken from Case Information System)

For Appellants	: Mr. Prasun Kumar Bhaduri, Deputy Advocate General
For Respondent	: Mr. Anupam Dubey, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

03.09.2026

1. Though Mr. Rajesh Roshan Singh, learned counsel, is on adjustment till 18.09.2026, however, having regard to the fact that

the present matter is an old one and is ripe for hearing, and further considering that Mr. Anupam Dubey, learned counsel appearing for the sole respondent, is from the same office and is present before the Court, we deem it appropriate to proceed with the hearing of the matter finally.

2. Heard Mr. Prasun Kumar Bhaduri, learned Deputy Advocate General, appearing for the State/appellants, as well as Mr. Anupam Dubey, learned counsel appearing for the sole respondent, on I.A. No. 02, which is an application seeking condonation of delay of 100 days in preferring the present appeal.
3. Having considered the grounds assigned in I.A. No. 02 and being satisfied with the explanation furnished therein, the application is allowed. Accordingly, the delay of 100 days in preferring the present appeal is hereby condoned.
4. By way of this writ appeal, appellants have prayed for following relief(s):-

"It is therefore most humbly and respectfully prayed that the order dated 18/01/2024 (ANNEXURE A- 1) passed by the learned Single Judge of this Hon'ble Court in WPS NO. 8745/2023: "Shivam Sahay Chouhan. Vs. State of Chhattisgarh & Anr." may kindly be set aside and consequently the instant writ appeal may kindly be allowed, in the interests of justice. "

5. The present intra Court appeal has been filed against the order dated 18.01.2024 passed by the learned Single Judge in Writ Petition (S) No.8745 of 2023 (*Shivam Sahay Chouhan v. State of*

Chhattisgarh and another), whereby the writ petition filed by the writ petitioner has been disposed of.

6. The material facts, as projected before the learned Single Judge, may be noticed in brief. The writ petitioner, Shivam Sahay Chouhan, was serving on the post of Assistant Grade-III in the office of the Collector, District Korba. In connection with FIR No.309/2022 registered against him for offences punishable under Section 509(B) of the Indian Penal Code and Section 67(A) of the Information Technology Act, 2000, he was placed under suspension by order dated 25.03.2022 with effect from 23.03.2022. A departmental charge-sheet was thereafter served upon him on 20.04.2022.
7. The grievance of the writ petitioner before the learned Single Judge was that although the order of suspension had been passed on 25.03.2022, no order extending the period of suspension was passed by the competent authority within the period of 90 days from the date of suspension. Subsequently, after a lapse of more than one and a half years, the respondent authority passed the impugned order dated 28.08.2023 extending the period of suspension.
8. It was contended on behalf of the writ petitioner that, in view of the law laid down by the Hon'ble Supreme Court in ***Ajay Kumar Choudhary v. Union of India through its Secretary and Another, (2015) 7 SCC 291***, and the judgment rendered by this

Court in ***Kishore Kumar @ K. Kumar v. State of Chhattisgarh & Others (WPS No.9074/2023 dated 28.08.2023)***, the order extending suspension was required to be passed within 90 days from the date of suspension. Since the same had admittedly not been done within the stipulated period, it was urged that the subsequent order dated 28.08.2023 extending the suspension was unsustainable in law. The learned State counsel, before the learned Single Judge, fairly admitted that the case of the writ petitioner was squarely covered by the decision rendered by this Court in ***Kishore Kumar*** (supra).

9. Upon consideration of the rival submissions and the material available on record, the learned Single Judge held that an order extending suspension was required to be passed within 90 days from the date of suspension. Finding that the impugned order dated 28.08.2023 had been passed after an inordinate delay of more than one and a half years from the date of the original order of suspension, the learned Single Judge, relying upon the decision in ***Kishore Kumar*** (supra), set aside the orders dated 25.03.2022 and 28.08.2023 and directed the respondents to reinstate the writ petitioner in service forthwith.
10. Aggrieved thereby, the State has preferred the present intra-Court appeal.
11. Mr. Prasun Kumar Bhaduri, learned Deputy Advocate General appearing for the State/appellants, would submit that the learned

Single Judge has fallen into error in setting aside the order of suspension dated 25.03.2022 as well as the subsequent order dated 28.08.2023, whereby the suspension of the respondent/writ petitioner was continued. He submits that the writ petition came to be disposed of without affording adequate opportunity to the State authorities to place on record their return and to demonstrate the factual as well as statutory basis for continuance of the suspension. According to him, had such opportunity been granted, the appellants would have been able to bring to the notice of the learned Single Judge the relevant provisions of Rule 9 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 and the circumstances which weighed with the competent authority while continuing the respondent under suspension. He would, therefore, contend that the impugned order has been passed without the complete statutory scheme governing suspension having been brought to the notice of the learned Single Judge.

12. Learned Deputy Advocate General would further submit that the reliance placed by the learned Single Judge upon the decision of the Hon'ble Supreme Court in **Ajay Kumar Choudhary** (supra) and the decision of this Court in **Kishore Kumar** (supra) was misplaced in the facts of the present case. Elaborating the submission, he contends that the ratio in **Ajay Kumar Choudhary** (supra) is principally to the effect that the currency of an order of suspension should not ordinarily extend beyond three

months where the memorandum of charges/charge-sheet has not been served upon the delinquent employee within that period. In the present case, however, the departmental charge-sheet was admittedly served upon the respondent/writ petitioner on 20.04.2022, i.e. well within the period prescribed under the applicable Rules. Once the memorandum of charges had been served within the prescribed period, it could not, according to the appellants, be held that the original suspension automatically lapsed merely because a subsequent order recording continuance of suspension was passed after 90 days. It is submitted that the judgment in ***Ajay Kumar Choudhary*** (supra) does not lay down as an inflexible proposition that every order continuing suspension, if passed beyond 90 days, would ipso facto render both the original order of suspension and the subsequent continuance thereof void.

13. Inviting attention to Rule 9(2-b) and Rule 9(5-A) of the Rules of 1966, learned State counsel would submit that the statutory framework itself makes a clear distinction between a case where the charges and accompanying documents are not issued within the prescribed period and a case where they have already been served upon the delinquent employee. Rule 9(5-A), according to him, specifically provides that an order of suspension made or deemed to have been made under the Rule shall continue to remain in force until it is modified or revoked by the competent authority. The provisos contemplate automatic revocation only in

those situations where the charge-sheet and other requisite documents are not issued within the prescribed period and the requisite extension is also not obtained. In the case at hand, since the departmental charge-sheet was served upon the respondent within the prescribed period, the consequence of automatic revocation contemplated under the provisos was never attracted. He would, therefore, submit that the learned Single Judge ought to have examined the effect of the aforesaid statutory provisions before concluding that the suspension and its continuance were rendered illegal merely because the subsequent order came to be passed after expiry of 90 days.

14. It is further submitted that the order dated 28.08.2023 continuing the suspension was not a mechanical or unreasoned order, but was passed after considering the nature and gravity of the allegations levelled against the respondent/writ petitioner, including the criminal case registered for offences under Section 509-B of the IPC and Section 67-A of the Information Technology Act. The competent authority, keeping in view the nature of the alleged misconduct and its possible impact upon discipline in the office and upon the working environment of the female employees, considered it appropriate to continue the respondent under suspension. Learned Deputy Advocate General would also submit that an order of suspension passed under Rule 9 is appealable under Rule 23 of the Rules of 1966 and, therefore, the respondent/writ petitioner had an efficacious statutory remedy

available to him, which he did not avail before invoking the writ jurisdiction of this Court. According to him, no exceptional circumstance such as want of jurisdiction or violation of the principles of natural justice had been demonstrated so as to justify bypassing the statutory remedy. On these grounds, it is urged that the order dated 18.01.2024 passed by the learned Single Judge deserves to be set aside and the writ appeal preferred by the State deserves to be allowed.

15. On the other hand, Mr. Anupam Dubey, learned counsel appearing for the sole respondent/writ petitioner, would oppose the submissions advanced on behalf of the State/appellants and submit that the learned Single Judge has committed no error in allowing the writ petition. He would contend that the controversy is squarely governed by the law laid down by the Hon'ble Supreme Court in **Ajay Kumar Choudhary** (supra), which has subsequently been followed and explained by this Court in **Kishore Kumar** (supra). According to him, the ratio of the aforesaid decisions is not confined merely to the requirement of serving the charge-sheet within the prescribed period, but also mandates that where the charge-sheet has been served, the competent authority is required to pass a reasoned order for continuation of suspension within the stipulated period. In the present case, admittedly, the respondent was suspended with effect from 23.03.2022, whereas the order extending the suspension was passed only on 28.08.2023, i.e. after an

unexplained delay of about one and a half years. Such belated exercise, according to learned counsel, defeats the very purpose of the safeguards incorporated against prolonged and indefinite suspension.

16. Learned counsel would further submit that the mere fact that the departmental charge-sheet was served upon the respondent on 20.04.2022 cannot by itself confer an unfettered or indefinite power upon the State to continue the suspension without periodic review. The object underlying the judgment in **Ajay Kumar Choudhary** (supra) is to ensure that suspension, which is essentially an interim and transitory measure, does not assume the character of a punitive measure by being continued indefinitely. He would contend that the provisions of Rule 9 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966, read with the law declared by the Hon'ble Supreme Court, have to be construed harmoniously, and the statutory power of continuing suspension cannot be exercised mechanically or after an inordinate lapse of time. In the present case, no order of continuation was passed within 90 days, nor was any periodic review undertaken during the intervening period. The order dated 28.08.2023 came to be passed only after the respondent was constrained to approach this Court in W.P.(S) No.5028 of 2023 and obtain directions for consideration of his grievance. Thus, the subsequent order, according to learned counsel, could not retrospectively revive a suspension which had already lost its

legal efficacy by operation of the principles laid down in the aforesaid judgments.

17. Learned counsel would also submit that the order dated 28.08.2023 does not satisfy the requirement of a meaningful and independent review of the necessity of continuing the respondent under suspension. The pendency of a criminal case or the nature of the allegations, by itself, cannot justify keeping a Government servant under suspension for an indefinite period, particularly when the respondent had already been granted bail and the departmental charge-sheet had been served. It is urged that the competent authority was required to objectively consider whether the respondent's continued presence in the office would prejudice the disciplinary proceedings or the criminal trial and whether he could instead be posted to a non-sensitive post so that his services could be utilised. The learned Single Judge, therefore, rightly applied the settled legal position and set aside the orders dated 25.03.2022 and 28.08.2023. Learned counsel would accordingly submit that no interference is warranted in the intra-Court appeal and the same deserves to be dismissed by affirming the order passed by the learned Single Judge.
18. After considering the submissions advanced by learned counsel for the parties, the learned Single Judge while relying upon the decisions rendered in **Ajay Kumar Choudhary** (supra) and **Kishore Kumar** (supra) has passed the impugned order, which

reads as follows for ready reference :-

“5. Taking into the consideration the observation made by Hon’ble Supreme Court in the case of Ajay Kumar Choudhary Vs. Union of India through its Secretary and Another passed in Civil Appeal No.1912 of 2015, this Court in the case of Kishore Kumar (supra) has accordingly held as under:

“Analysing the language expressions including the punctuation used by their Lordships, it can be categorically stated that the main clause, being mandatory and the two sub-clauses, distinctly marked with the help of the punctuation semi colon (;) and the insertion of the conjunction ‘if’ to being with the two sub-clauses, clearly indicate that the direction in entirety is continuous in nature and is contained within 90 days essentially. Therefore, it clearly shows that the currency of 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. Meaning thereby, serving of memorandum of charges/charge-sheet within 90 days of suspension is mandatory. Further, it is also clear that if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for extension of the suspension. In view of this Court, in Ajay Kumar Choudhary Versus Union of India through its Secretary, (2015) 7 SCC 291, the intent of the Hon’ble Supreme Court is clear that if the memorandum of charges/charge-sheet is served, an order of extension of the suspension must also be

passed."

6. In Paragraph-15 of the said order this Court further observed that :

"In conclusion, it is held that order of extension of suspension must be passed within the period of 90 days of the suspension."

7. Thus, as observed in the case of Kishore Kumar (supra), the order of extension of suspension should be passed within 90 days from the date of order of suspension. In the case in hand, the order of extension of suspension has been passed by the respondent authority after 90 days i.e. after more than one and a half year from passing of order of suspension. Therefore, on this ground only, the order dated 28.08.2023 and 25.03.2022 i.e. Annexure P1 and P2 respectively are liable to be set aside.

8. Considering facts of the case, submission of learned counsel for the parties, grounds raised in writ petition, further the fact that the case of petitioner is squarely covered with order/judgment passed by this Court in case of Kishore Kumar (supra), I am of the view that impugned order dated 28.08.2023 and 25.03.2022 i.e. Annexure P1 and P2 respectively are set aside.

9. Accordingly, present writ petition is allowed. Concerned respondent authority is directed to reinstate the petitioner in the services forthwith.

10. With the aforesaid observation, this writ petition is disposed of.

Certified copy as per rules.”

- 19.** We have heard learned counsel for the parties and have carefully perused the impugned order passed by the learned Single Judge, the pleadings and material available on record, as also the relevant provisions of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short, “the Rules of 1966”). We have also given our thoughtful consideration to the respective submissions advanced by learned counsel for the State/appellants as well as learned counsel appearing for the respondent/writ petitioner.
- 20.** The controversy which arises for our consideration in the present intra-Court appeal is in a narrow compass. The respondent/writ petitioner was placed under suspension by order dated 25.03.2022 with effect from 23.03.2022, on account of his detention for a period exceeding 48 hours in connection with the criminal case registered against him. It is not in dispute that the departmental charge-sheet was served upon the respondent on 20.04.2022.
- 21.** It is also not in dispute that no order for continuation/extension of suspension was passed within 90 days from the date of the order of suspension and that the order dated 28.08.2023, whereby the suspension was sought to be continued, came to be passed after a lapse of more than one and a half years. The learned Single Judge, principally relying upon the judgment of the Hon’ble

Supreme Court in **Ajay Kumar Choudhary** (supra), as also the subsequent decision of this Court in **Kishore Kumar** (supra), held that the order of continuation of suspension was required to be passed within 90 days and, having not been so passed, set aside both the original order of suspension dated 25.03.2022 and the subsequent order dated 28.08.2023.

22. In our considered view, before examining the correctness of the conclusion reached by the learned Single Judge, it would be appropriate to notice the statutory scheme governing suspension under Rule 9 of the Rules of 1966. The said Rule confers power upon the competent authority to place a Government servant under suspension in the circumstances contemplated therein. At the same time, the Rule itself contains safeguards concerning the continuation of such suspension, particularly in relation to service of the memorandum of charges and the documents accompanying it. Rule 9(5-A) specifically provides that an order of suspension made or deemed to have been made under the Rule shall continue to remain in force until it is modified or revoked by the competent authority. The statutory consequences of automatic revocation contemplated under the provisos to the said provision are attracted in the circumstances specifically stipulated therein, namely, where the requisite charges and documents are not supplied within the prescribed period and the competent authority fails to obtain the requisite extension in accordance with Rule 9(2-B). In the present case, the factual position is materially different

from a case where the memorandum of charges itself was not served within the prescribed period. Admittedly, the respondent was served with the departmental charge-sheet on 20.04.2022, whereas the suspension had commenced with effect from 23.03.2022. Thus, the charge-sheet was served within the period prescribed under the Rules. Consequently, the statutory consequence of automatic revocation on account of non-service of the memorandum of charges within the prescribed period was not attracted. This aspect assumes considerable significance, because the learned Single Judge has proceeded on the premise that once the period of 90 days expired without an order of extension of suspension having been passed, the original order of suspension itself stood rendered invalid, notwithstanding the admitted fact that the departmental charge-sheet had already been served upon the respondent within the prescribed period.

- 23.** We are also of the considered view that the observations made by the Hon'ble Supreme Court in ***Ajay Kumar Choudhary*** (supra) are required to be appreciated in their proper factual and legal context. The Hon'ble Supreme Court was concerned with the serious issue of prolonged and indefinite suspension and observed that suspension, being essentially an interim measure, should not be permitted to continue for an unduly long period so as to assume the character of punishment. The Court, therefore, observed that the currency of suspension should not extend beyond three months if within that period the memorandum of

charges/charge-sheet is not served upon the delinquent employee. The emphasis of the judgment was thus substantially upon preventing continuation of suspension in a case where even disciplinary charges had not been served within stipulated period.

24. It is equally important, however, that the judgment in ***Ajay Kumar Choudhary*** (supra) cannot be read in isolation from the statutory rules applicable to the Government servant concerned. The said decision cannot be understood as laying down an absolute proposition that, irrespective of the governing service rules and irrespective of the fact that the charge-sheet has already been served within the prescribed period, the original order of suspension would automatically stand extinguished merely upon expiry of 90 days unless a separate order of extension is passed within those very 90 days. Such an interpretation, in our considered opinion, would amount to reading into the statutory rule something which is not expressly provided therein.
25. In this connection, Rule 9(5-A) of the Rules of 1966 assumes significance. The said provision expressly stipulates that an order of suspension shall continue to remain in force until it is modified or revoked by the competent authority, subject to the consequences specifically provided in the provisos thereto. The Rule does not, in terms, prescribe that in every case where the charge-sheet has been served within the prescribed period, the competent authority must necessarily pass an order of extension

of suspension within 90 days and that failure to do so would automatically terminate the original order of suspension. The learned Single Judge, while relying upon the decision in ***Kishore Kumar*** (supra), has treated the period of 90 days as an absolute statutory cut-off for the continuance of every order of suspension. In our considered view, such an interpretation does not take into account the precise language and scheme of Rule 9 of the Rules of 1966.

26. The distinction between the initial validity of an order of suspension and the subsequent administrative decision regarding its continuance also cannot be lost sight of. The fact that an authority may have failed to pass an order of continuation within a particular period may certainly invite judicial scrutiny as to whether the suspension is being continued mechanically, whether the authority has periodically reviewed the necessity of suspension, and whether the continuation has become punitive in nature. However, such lapse, by itself, cannot be treated as automatically obliterating the original order of suspension unless such consequence necessarily follows from the statutory provision or binding judicial precedent applicable to the case.
27. In the present matter, the respondent's suspension was initially ordered on account of his detention for more than 48 hours in connection with a criminal case. The departmental charge-sheet was thereafter served upon him within the period contemplated by

the Rules. The subsequent order dated 28.08.2023 was passed by the competent authority taking into consideration the nature and gravity of the allegations against the respondent and the circumstances which, according to the authority, warranted his continued absence from the office. The said order, therefore, could not have been brushed aside merely on the ground that it was passed after expiry of 90 days, without examining the statutory source of power and the reasons recorded by the competent authority for continuation of suspension.

28. We may hasten to add that the power to continue an employee under suspension is undoubtedly not an unbridled power. The competent authority is required to exercise such power reasonably, fairly and upon consideration of relevant circumstances. Prolonged suspension cannot be permitted to become a substitute for punishment, nor can a Government servant be kept away from duty for an indefinite period without periodic consideration of the necessity of such continuation. The principles enunciated by the Hon'ble Supreme Court in **Ajay Kumar Choudhary** (supra) are undoubtedly relevant while examining the validity and necessity of prolonged suspension. Nevertheless, those principles have to operate within, and in harmony with, the statutory framework governing the service conditions of the concerned Government servant.
29. In the present case, however, the learned Single Judge has not

undertaken such an examination. The impugned order proceeds principally on the proposition that since the order dated 28.08.2023 was passed after expiry of 90 days, both the original order of suspension dated 25.03.2022 and the subsequent order dated 28.08.2023 were liable to be set aside. There is no detailed examination in the impugned order of the effect of Rule 9(5-A), the circumstances in which the original suspension was ordered, the fact that the departmental charge-sheet had admittedly been served within the prescribed period, or the reasons recorded by the competent authority while passing the order dated 28.08.2023. In our considered view, these aspects were germane to the determination of the controversy.

- 30.** We are, therefore, unable to sustain the conclusion of the learned Single Judge that the original order of suspension automatically became non-est merely because an order of continuation was not passed within 90 days. The proposition that every order of suspension necessarily comes to an end upon expiry of 90 days, even where the charge-sheet has been duly served within the period prescribed by the Rules, cannot be accepted as an absolute proposition of law. Such an interpretation would render the substantive provision contained in Rule 9(5-A), which contemplates continuance of suspension until modification or revocation by the competent authority, substantially otiose.
- 31.** At the same time, we make it clear that our conclusion should not

be understood as granting the State an unfettered authority to continue suspension indefinitely. The competent authority is bound to periodically consider whether continuation of suspension is necessary and justified having regard to the nature of the allegations, the stage of the disciplinary proceedings or criminal case, the possibility of the employee interfering with the proceedings or influencing witnesses, the nature of duties assigned to him, and the possibility of his being posted to a non-sensitive post. Suspension cannot be permitted to operate as a punitive measure merely because a criminal case or departmental proceeding remains pending.

32. The respondent/writ petitioner had also relied upon the decision of this Court in ***Kishore Kumar*** (supra). However, in our considered opinion, the observations made therein cannot be mechanically applied without examining the precise statutory provisions applicable to the employee and the factual circumstances of the case. To the extent the said decision has been understood as laying down an absolute proposition that an order of suspension must, in every circumstance and irrespective of the language of the applicable statutory rules, be extended within 90 days, we are of the view that such interpretation requires reconsideration in the light of the statutory scheme of Rule 9 of the Rules of 1966.
33. There is yet another aspect which assumes significance. The order dated 28.08.2023 is an order passed by the competent

authority subsequent to the service of the departmental charge-sheet and records the reasons which weighed with the authority in continuing the suspension. The validity of such an order has to be tested on the touchstone of the statutory power, the relevant circumstances and the principles governing judicial review of administrative action. The Court, while exercising jurisdiction under Article 226 of the Constitution, does not ordinarily substitute its own satisfaction for that of the competent disciplinary authority in a matter concerning the necessity of suspension, unless the order is shown to be arbitrary, mala fide, without jurisdiction, based on irrelevant considerations or otherwise contrary to law.

34. We are conscious of the fact that the respondent/writ petitioner had approached this Court earlier seeking consideration of his grievance regarding revocation of suspension and that the subsequent order dated 28.08.2023 was passed thereafter. However, that circumstance, by itself, would not render the subsequent order void. At the highest, it would require the competent authority's decision to be examined to ascertain whether there was due application of mind and whether the continuation of suspension was justified on relevant considerations. The learned Single Judge, instead of undertaking that exercise, has treated the expiry of 90 days as conclusively terminating the suspension.

35. In view of the aforesaid discussion, we are of the considered

opinion that the learned Single Judge erred in law in setting aside the original order of suspension dated 25.03.2022 solely on the ground that the subsequent order dated 28.08.2023 was passed beyond 90 days. The impugned order, therefore, cannot be sustained to that extent. The order dated 28.08.2023 also could not have been quashed merely on the ground of the date on which it was passed, without examining its validity in the context of Rule 9 of the Rules of 1966 and the reasons recorded therein.

36. Consequently, the order dated 18.01.2024 passed by the learned Single Judge in Writ Petition (S) No.8745 of 2023 is set aside. The writ petition filed by the respondent/writ petitioner shall stand dismissed. The orders dated 25.03.2022 and 28.08.2023 shall not stand quashed on the ground that the order of continuation of suspension was passed beyond the period of 90 days.
37. However, having regard to the fact that the respondent has remained under suspension for a considerable period, we deem it appropriate to observe that the competent authority shall undertake a fresh and meaningful review of the necessity of continuing the respondent under suspension, keeping in view the principles laid down by the Hon'ble Supreme Court in **Ajay Kumar Choudhary** (supra) and the statutory provisions governing suspension. Such consideration shall be undertaken objectively and independently, without being influenced merely by the fact that the present appeal has been allowed. If the

competent authority is of the view that the respondent's continued suspension is no longer necessary, it shall be open to the competent authority to revoke the suspension or to consider posting him against a suitable non-sensitive post, in accordance with law.

- 38.** It is clarified that we have not expressed any opinion on the merits of the criminal case or the departmental proceedings pending against the respondent. Nothing contained in this judgment shall be construed as an expression of opinion on the merits of the allegations levelled against him. The disciplinary/criminal proceedings shall proceed independently and in accordance with law.
- 39.** In the result, the writ appeal is **allowed**. The order dated 18.01.2024 passed by the learned Single Judge in Writ Petition (S) No.8745 of 2023 is hereby set aside and the writ petition stands dismissed. The orders dated 25.03.2022 and 28.08.2023 shall stand subject to the competent authority undertaking a fresh review of the continuance of suspension in accordance with law and in the light of the observations made hereinabove.
- 40.** There shall be no order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Head-Note

Mere failure to pass an order of continuation within 90 days does not, by itself, invalidate the order of suspension under Rule 9 of the Rules of 1966, where the departmental charge-sheet has been served upon the delinquent employee within the said period. However, prolonged suspension cannot be continued mechanically and must remain subject to periodic and meaningful review by the competent authority.