



CWP-4775-2025

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

119

CWP-4775-2025

Date of Decision: 07.07.2025

Jitender Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Ankur Lal, Advocate for the petitioner

Ms. Rajni Gupta, Additional Advocate General, Haryana

Mr. Prince Singh, Advocate for respondent Nos.2 and 3

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking direction to respondent to withdraw suspension order dated 30.10.2024 (Annexure P-1).

2. The petitioner joined Dakshin Haryana Bijli Vitran Nigam Limited as Lower Divisional Clerk on 25.03.1997. He was promoted as Upper Divisional Clerk in 2000. He was further promoted to the post of Commercial Assistant in 2008 and as Deputy Superintendent in January 2018. He came to be implicated in FIR No.557 dated 30.11.2018 under Sections 406, 420, 467, 468, 471 & 409 of Indian Penal Code, 1860 and Sections 13(1)(d) of Prevention of Corruption Act, 1988 registered at Police Station Sector 40, Gurugram. He was called for interrogation on 25.10.2024 by Assistant Commissioner of Police, Gurugram. He was arrested on the same day. On account of his arrest, he was placed under suspension w.e.f.



CWP-4775-2025

-2-

25.10.2024 vide order dated 30.10.2024. Thereafter, a charge-sheet was issued to him on 30.01.2025 as per Dakshin Haryana Bijli Vitran Nigam Employees (Punishment and Appeal) Regulations, 2019 (for short '**2019 Regulations**').

3. Mr. Ankur Lal Gupta, Advocate submits that petitioner was suspended vide order dated 30.10.2024 and as per Regulations 5 of Haryana Civil Services (Punishment and Appeal) Rules, 2016 read with Rule 5 of 2019 Regulations, order of suspension cannot remain in force beyond 90 days unless it is extended. A period of 90 days from the date of passing impugned suspension order had already lapsed prior to issuance of the charge-sheet.

4. *Per contra*, Mr. Prince Singh, Advocate for respondent Nos.2 and 3 submits that clauses (a) (b) and (c) of Regulation 5(1) of 2019 Regulations are independent from each other. Each clause addresses different factual scenario and is applicable to different situation. Proviso after clause (c) of Regulation 5(1) is applicable to clause (a) and (c) whereas case of the petitioner is covered by clause (b), thus, period of 90 days to initiate departmental proceedings from the date of suspension is not applicable.

5. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

6. The undisputed facts are that the petitioner joined respondent as Lower Divisional Clerk on 25.03.1997. He came to be implicated in FIR No.557 dated 30.11.2018. Though he was not arrested immediately upon



registration of the FIR, however, he was eventually arrested on 25.10.2024. Pursuant to his arrest, the respondent placed him under suspension vide order dated 30.10.2024. A period of 90 days from the date of suspension expired on 26.01.2025 and the respondent issued charge-sheet to him on 30.01.2025.

7. The petitioner is claiming that charge sheet was issued beyond 90 days from the date of suspension, thus, entire proceedings emanating from the charge-sheet are bad in the eye of law. Period of 90 days prescribed by Regulation 5 of 2019 Regulations for initiating proceedings is mandatory and sacrosanct. There is no question of deviating from the said period. The authorities were duty bound to issue charge-sheet within 90 days of the suspension order, which they failed to do. As departmental proceedings were not initiated within 90 days from the date of suspension, entire proceedings have become null and void and deserve to be set aside.

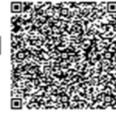
8. The dispute between the parties revolves around interpretation of Regulation 5 of 2019 Regulations, thus, for the ready reference, the said Regulation is reproduced as under: -

“5. Suspension and withholding of emoluments.-

(1) The appointing authority or any other authority to which it is subordinate or the punishing authority or any other authority empowered in that behalf by the Nigam, by general or special order, may place a Nigam employee under suspension where-

(a) a disciplinary proceeding against him contemplated or is pending, or is

(b) a case against him in respect of any criminal offence is under investigation, inquiry or trial;



Provided that the suspended employee, shall be bound to mark his presence on all working days in the office where his headquarter during the period of his suspension, is fixed and in not doing so, would be an act of misconduct; or

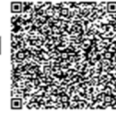
- (c) *in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the Nigam:*

Provided that where a Nigam employee against whom disciplinary proceedings are contemplated is suspended, such suspension shall not be valid, where the disciplinary proceedings are not initiated against him before the expiry of a period of ninety days from the date from which the employee was suspended:

Provided further that the competent authority in the matter may, at any time before the expiry of the said period of ninety days and after considering the special circumstances for not initiating disciplinary proceedings, to be recorded in writing and after seeking the approval of next higher authority allow continuance of the suspension beyond ninety days but not beyond one hundred eighty days without the disciplinary proceedings being initiated;

Note 1.- *The order of suspension shall stand revoked, being invalid, unless the punishing authority obtains the approval of next higher authority and informs the Nigam employee under suspension the specific period of extension of suspension before the expiry of period of ninety days or extended period of another ninety days, as the case may be.*

Note 2.- *Where the order of suspension, is made by an authority lower than the appointing*

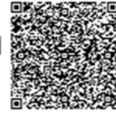


authority or any other authority empowered in that behalf by the Nigam, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

- (2) *A Nigam employee shall be deemed to have been placed under suspension by an order of the appointing authority-*
- (a) *with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;*
- (b) *with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.*

Explanation.- *The period of forty-eight hours referred to in Clause (b) of this sub-regulation shall be computed from the commencement of imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.*

- (3) *Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Nigam employee under suspension is set aside on appeal or review under these regulations 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 continued 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 Nigam*



employee is set aside or declared or rendered void in consequence of or by a decision of a Court of law, and the punishing authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegation on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Nigam employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

- (5) An order of suspension made or deemed to have been made under this regulation shall continue to remain in force until it is modified or revoked by the competent authority.*
- (6) Where a Nigam employee is suspended or is deemed to have been suspended, whether in connection with any disciplinary proceeding or otherwise, and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by it in writing, direct that the Nigam employee shall continue to be under suspension until the termination of all or any of such proceedings.*
- (7) An order of suspension made or deemed to have been made under this regulation may at any time be modified or revoked by the authority, which made or is deemed to have made the order or by any authority to which that authority is subordinate.*



(8) When a Nigam employee is suspected of being concerned in the embezzlement of Nigam money and is placed under suspension, the authority competent to order his dismissal may direct, that unless he furnishes security for the reimbursement of the said money to the satisfaction of his immediate superiors, the payment of any sum due to him by the Nigam on the date of his suspension, shall be deferred until such time as the said authority passes final orders on the charges framed against him;

Provided that Nigam employee shall be entitled to the payment of a subsistence allowance in respect of the period for which the admissible emoluments, if any, are withheld.”

9. From the perusal of above quoted Regulation, it is evident that Regulation 5(1) of 2019 Regulations contemplates three situations, each requiring an order to be passed by the competent authority. Sub-Regulation (2) contemplates two situations. There is no need to pass order under Sub-Regulation (2). An employee is deemed to be placed under suspension upon the occurrence of contemplated situation.

10. In the case in hand, an order was passed under Regulation 5(1) of 2019 Regulations. The petitioner was suspended on account of his arrest by police authorities. His case squarely falls under clause (b) of Regulation 5(1). There is proviso after clause (b) which requires that suspended employee shall be bound to mark his presence on all working days in the office where his headquarter is fixed. There is another proviso below clause (c). The petitioner is trying to claim that said proviso is applicable to all three clauses. It is true that said proviso is below clause (c) and is applicable to all the clauses, however, there is need to examine whether requirement of



90 days is applicable to all the situations contemplated by Regulation 5 or it is applicable to a particular situation.

Clause (a) is applicable where disciplinary proceedings are contemplated or pending. Clause (b) is applicable where a criminal offence is under investigation, inquiry or trial against an employee. Clause (c) is applicable where competent authority is of the opinion that employee is engaged in the activities which are prejudicial to interest of the organization. The proviso after clause (c) categorically provides that where disciplinary proceedings are contemplated and employee is suspended, the department shall be bound to initiate proceedings within 90 days from the date of suspension. From the reading of proviso, it is quite clear that period of 90 days is applicable where an employee is suspended on account of contemplated disciplinary proceedings. It is not even applicable where proceedings are pending. It is applicable only where disciplinary proceedings are contemplated. There is logic and reason for prescribing 90 days period where proceedings are contemplated. Contemplation of proceedings means the competent authority may or may not initiate the proceedings. Contemplation is a mere thought process which may or may not entail departmental proceedings. Suspension on account of criminal proceedings is an independent event for placing a Government Employee under suspension. The conclusion of criminal proceedings is not in the hands of the appointing authority. The proviso has protected employees from misuse of power of suspension in the name of contemplated departmental proceedings.



CWP-4775-2025

-9-

11. Sub-Regulation (5) of Regulation 5 provides that order of suspension made or deemed to have been made shall continue to remain in force unless it is modified or revoked by competent authority. Sub-Regulation (7) provides that order of suspension made at any time be modified or revoked by the authority. Sub-Regulations (5) & (7) of Regulation 5 make it clear that once a suspension order is passed, it shall continue to remain in force until it is modified or revoked by competent authority. Sub-Regulations (5) & (7) would become otiose if it is held that in every case, on the expiry of 90 days, if departmental proceedings are not initiated, the entire proceedings would vitiate.

12. In the wake of above discussion and findings, this Court is of the considered opinion that the petitioner is not entitled to the benefit of proviso below clause (c) of Sub-Regulation (1) of Regulation 5 of 2019 Regulations. The petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

07.07.2025

Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No