

A. Biren Singh and ors. Vs. State of Manipur and ors.

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Court : Guwahati

Decided On : Aug-25-2006

Judge : T.N.K. Singh, J.

Appellant : A. Biren Singh and ors.

Respondent : State of Manipur and ors.

Advocate for Pet/Ap. : Mr. Y. Nirmolchand

Prior history : T.N.K. Singh, J. 1. Heard Mr. H.S. Paonam, Mr. M. Hemchandra and Mr. Y. Nirmolchand, learned Counsel for the petitioners and Mr. Th. Ibohal, learned GA appearing on behalf of all the respondents. 2. Since these writ petitions 5 (five) in numbers involve common questions of law and similar facts, these are heard jointly and disposed of by a common judgment and order. Facts of each of the case are being discussed in separate paragraphs of the common judgment and order. 3. The writ petitioner of

Judgement :

T.N.K. Singh, J.

1. Heard Mr. H.S. Paonam, Mr. M. Hemchandra and Mr. Y. Nirmolchand, learned Counsel for the petitioners and Mr. Th. Ibohal, learned GA appearing on behalf of all the respondents.

2. Since these writ petitions 5 (five) in numbers involve common questions of law and similar facts, these are heard jointly and disposed of by a common judgment and order. Facts of each of the case are being discussed in separate paragraphs of the common judgment and order.

3. The writ petitioner of WP(C) No. 759 of 2006 was initially appointed as LDC (Lower Division Clerk) in the Directorate of Education (S), Government of Manipur vide order of the Director of Education (S), Government of Manipur dated 8.1.1973 (Annexure-A/1 to the present writ petition). The petitioner also passed the examination for Office Procedure held on 19.8.1973 and result of the said examination was published on 15.2.1974. The name of the petitioner appear at S1. No. 14 in the said notification dated 15.2.1974. The petitioner had also undergone successfully the Accounts Training in the year, 1984. Ultimately, the petitioner was promoted to the post of UDC (Upper Division Clerk) on the recommendation of the DPC vide order of the Director of Education (S), Government of Manipur dated 23.6.1989 (Annexure-A/4 to the present writ petition). It is alleged that while the petitioner was working as Dealing Assistant, he was placed under suspension on the charge that the petitioner had played an instrumental role in the illegal withdrawal of pension, arrear pension and arrear pay amounting to Rs. 12 crores (twelve crores) from the Government account by the retired Headmasters/Head Pandits of Lower Primary Schools under the Department of Education (S), Government of Manipur vide order of the Director, Education (S), Government of Manipur being No. 1/11/05-SE(S), Imphal the 25th May, 2005 (Annexure-A/5 to the present writ petition).

4. The petitioner of Writ Petition (C) No. 755 of 2005 was working as LDC (Lower Division Clerk) in the Directorate of Education (Schools), Government of Manipur. While working as such, he passed the Office Procedure examination in the year, 1983. By an order of the Director, Education (S), Government of Manipur the petitioner was transferred and posted as LDC in the Directorate of Education (S), Government of Manipur. The petitioner was later on promoted to the post of UDC (Upper Division Clerk) on the recommendation of the duly constituted DPC vide order of the Director of Education (S), Government of Manipur dated 5.1.2000 (Annexure-A/6 to the present writ petition). In that order i.e., dated 5.1.2000 the

name of the petitioner appear at S1. No. 4. By an order of the Director of Education (S), Government of Manipur being No. 1/11/05-SE (S), dated 25.5.2005 the petitioner was placed under suspension on the charge that the petitioner played an instrumental role in fabricating information in the relevant service records of retired teachers leading to unauthorized withdrawal of pension, arrear pension and arrear pay amounting to Rs. 12 crores (twelve crores) from the Government account by the retired Headmasters/Head Pandits of Lower Primary Schools in the Department of Education (S), Government of Manipur.

5. The Writ Petitioner of W.P.(C) No. 972 of 2005 was initially appointed as regular Assistant Teacher in the year, 1972. After working about 8 (eight) years the petitioner was promoted as Assistant Inspector (Adhoc) and subsequently his ad hoc appointment as Assistant Inspector was regularized in the year, 1986. Subsequently, in the year 2000 the petitioner was promoted to the post of Deputy Inspector (D.I.) of Schools in the year 2000 and posted at the office of the Zonal Education Officer, Chandel District and since then the petitioner has been working as D.I. In the month of November, 2002, the petitioner was entrusted the work of DDO. It is stated that in pursuance of different orders of the Zonal Education Officer, Chandel and also on the recommendation of the District Level Screening Committee, Chandel, Head Pandits/Headmasters who have completed 15 (fifteen) years' regular service were allowed to enjoy the senior scale of pay. It is also stated that the petitioner simply submitted the list of teachers numbering 28 (twenty eight) with their addresses, dates of declaration as Headmaster/Head Pandits and concerned orders of the Director of Education(s), Government of Manipur to the Director of Education. Government of Manipur. By an order of the Government of Manipur being No. 1/11/05-SE (S), Imphal the 21st May, 2005 the petitioner was placed under suspension on the charge that the petitioner, in collusion with other officers in the offices of the Director of Education (S), Government of Manipur and General Offices and Zonal Education Officers, Chandel had facilitated unauthorized withdrawal of pension, arrear pension and arrear pay amounting to over Rs. 12 crores from the Government account by the retired Headmasters/Head Pandits of Lower Primary Schools under the Department of Education (S), Government of Manipur.

6. The Writ Petitioner of WP(C) No. 1159 of 2005 is a Senior Accountant in the Education Department (Schools), Government of Manipur and he was posted at the different offices of the Zonal Education Officer, Education Department, Government of Manipur. By an order of the Director of Education (S), Government of Manipur being No. 2/97/2005-ED (S), Imphal the 25.5.2005 the petitioner was placed under suspension on the charge that many irregular orders were passed with the active assistance of the petitioner and in collusion with many officers in the office of the Director of Education (S), and Zonal Education Officer, thereby resulting to unauthorized withdrawal of pension, arrear pension and arrear pay amounting to over Rs. 12 crores from the Government account by the retired Headmasters/Head Pandits of Lower Primary Schools under the Department of Education (S), Manipur.

7. The Writ Petitioner of WP(C) No. 1160 of 2005 was serving as ZEO Zone-1. By an order of the Government of Manipur being No. 1/11/05-SE (S) Imphal the 21.5.2005 the petitioner was placed under suspension on the charge that with the active assistance of the petitioner and in collusion with many officials in the offices of the Director of Education and Zonal Education Officers had allowed the unauthorized withdrawal of pension, arrear pension and arrear pay amounting to Rs. 12 crores from the Government account by the retired Headmasters/Head Pandits of the Lower Primary Schools under the Department of Education (S), Government of Manipur.

8. The petitioners of the present writ petitions filed the present writ petitions assailing the suspension orders. The respondents also filed their Affidavit-in-opposition stating that the circumstances leading to the passing of orders placing the petitioners under suspension. In their Affidavit-in-opposition it is stated that on 29.4.2005 Shri H. Mathang Singh, the Under Secretary (Edn/S), on behalf of the Government of Manipur had submitted a report in writing stating that the officials in the Directorate of Education (S), Government of Manipur, Zonal Education Officers of the Directorate and officials of Pension Cell of the Accountant General, Manipur, after conspiring among themselves had allowed the pensioners to withdraw dishonestly and fraudulently huge amount of money exceeding Rs. 12 crores (twelve crores) between 2003 to 2004 on the basis of illegal orders passed by the

Director of Education (S), giving unauthorized higher scale of pay which had resulted in the payment of revised pension to the retired pensioners in the LP and Primary Schools. Ultimately on the basis of the said letter of the Under Secretary (Edn/S) and the irregular orders a regular criminal case being FIR No. 71 (4) 05 LPL RS. under Section 420/409/468/475/120-B IPC and Section 13(1)(d)/13(2) PC Act, 1988 was registered at Lamphel Police Station and active investigations are going on. A copy of report containing the materials collected by the Investigating Officer of the said FIR against each of the writ petitioners or/status report of the involvement of each of the writ petitioners in the said criminal case was placed before this Court as Annexures in the Affidavit-in-opposition filed by the respondents. In the status report of the involvement of the writ petitioners in the said criminal case for unauthorized withdrawal of huge amount of money amounting to Rs. 12 crores, it is clearly mentioned that all the writ petitioners are involved in the withdrawal of the said amount of over 12 crores by abusing their positions as public servants with the highest wrongful loss in the State ex-chequer and also that huge documents are to be seized from many offices and many prosecution witnesses are also to be examined and also that the material documents seized in the case have strongly established the guilt of the writ petitioners. It is also stated that the investigation of the said case has been given to the CBI vide Government of Manipur order No. 19/1/0/2005-H dated 11/11/2005.

9. Now the questions involved in these writ petitions are that:

(1) whether or not the impugned suspension orders are to be quashed in the peculiar facts and circumstances of the present case only because there is delay in initiating and completing the contemplated disciplinary proceedings against the writ petitioners; and

(2) whether or not the respondents will be allowed to place the writ petitioners under suspension for an indefinite period only on the alleged charge that the writ petitioners are involved in the alleged illegal withdrawal of huge amount of money amounting to Rs. 12 crores from the public ex-chequer.

10. It is fairly well settled that the order of suspension of a Government servant does not put an end to his service under the Government and suspension is not one of the punishment specified in Rule 11 of the Central Civil Services (CCA) Rules and order of suspension is not to be lightly passed against the Government servant. Normally suspension order is issued for suspending an employee to refrain him to avail further opportunity to perpetrate the alleged misconduct or to remove the impression amongst the members of service that dereliction of duty would pay fruits and the offending employee could get away even pending enquiry without any impediment or to prevent an opportunity to the delinquent officer to scuttle the enquiry or investigation or to win over the witnesses or the delinquent having had the opportunity in office to impede the progress of the investigation or enquiry. The Apex Court in *State of Orissa v. Bimal Kumar Mohanty* : (1995)ILLJ568SC held that the Court would not be justified to interfere an order of suspension for placing an employee on the serious allegation of malpractice and corruption and misconduct only because there is delay in completion of the Departmental Enquiry for the alleged charge/allegations against the employee. The relevant portion of the para 12 and 13 of the AIR in *State of Orissa v. Bimal Kumar Mohanty* (supra) reads as follows:

...The Court or the Tribunal must consider each case on its own facts and no general law could be laid down in that behalf. Suspension is not a punishment but is only one of forbidding or disabling an employee to discharge the duties of office or post held by him. In other words it is to refrain him to avail further opportunity to perpetrate the alleged misconduct or to remove the impression among the members of service that dereliction of duty would pay fruits and the offending employee could get away even pending enquiry without any impediment or to prevent an opportunity to the delinquent officer to scuttle the enquiry or investigation or to win over the witnesses or the delinquent having had the opportunity in office to impede the progress of the investigation or enquiry etc. But as stated earlier, each case must be considered depending on the nature of the allegations, gravity of the situation and the indelible impact it creates on the service for the continuance of the delinquent employee in service pending enquiry or contemplated enquiry or investigation. It would be another thing if the action is actuated by mala fides, arbitrary or for ulterior purpose. The suspension must be a

step in aid to the ultimate result of the investigation or enquiry. The authority also should keep in mind public interest of the impact of the delinquent's continuance in office while facing departmental enquiry or trial of a criminal charge.

13. On the facts in this case, we are of the considered view that since serious allegations of misconduct have been alleged against the respondent, the Tribunal was quite unjustified in interfering with the orders of suspension of the respondent pending enquiry.

11. In *Union of India v. Raj Kishore Pariya* 1995 Supp (4) SCC 235, the fact of the case was that the employee was placed under suspension pending inquiry, charge sheet was served but the enquiry could not be completed even within 5 (five) long years. On being challenged the suspension orders the learned Tribunal quashed the suspension order only because of the ground of delay in completing the departmental enquiry and ordered to reinstate the employee. On the appeal filed by the Union and another before the Supreme Court against the order of the learned Tribunal for quashing the suspension order and also for reinstatement, Apex Court allowed the Appeal on the ground that the Tribunal traveled beyond its jurisdiction in quashing the charge and the authority should have been given a chance to complete the departmental enquiry. Further, the Apex Court held that the authority should complete the enquiry within six months from the date of passing the order.

12. This Court also had followed the ratio laid down in the *State of Orissa v. Bimal Kumar Mohanty* (supra) in *Darshan Singh v. State of Arunachal Pradesh and Anr.* 1997 (1) GLT 30. In that case this Court held that the Court should not interfere with the order of suspension unless it is mala fide without mere being even prima facie evidence to connect the delinquent with the misconduct charged. In the present case in hand, as discussed above there are prima facie evidence to connect the writ petitioners with the misconduct/fraudulent withdrawal of huge amount of money charged. This Court in *Darshan Singh v. State of Arunachal Pradesh and Anr.* (supra) has not interfered with the suspension order but this Court is also of the view that the order of suspension is not an order imposing punishment on a delinquent servant even to be guilty and it is an order made

against him before he is found guilty to ensure smooth disposal of the proceeding initiated against him and such proceedings must be expeditiously concluded both in the interest of the public services of the Government as well as the Government servant. Para nos. 14, 15, 16 and 17 of the GLT in Darshan Singh v. State of Arunachal Pradesh and Anr. (supra) reads as follows:

'14. Mr. Goswami strenuously urged that it is not only on the belated framing of charges but taking the same on their face value, in face of the reply and clarification submitted by the petitioner, the frivolity and falsity of charges stands exposed. Learned Govt. Advocate appearing for the state, on the other hand, submitted that going into the question of veracity at this stage, would be pre-judging the issue, the enquiry is yet to be held. He also pointed out that there is no arbitrariness, much less malice, on the part of the authorities. Merely alleging, 'some political persons as some of the political heavy weights wanted to appoint some of their own persons as Chief Engineer and accordingly they conspired to oust the petitioner from the post of Chief Engineer by means fair or foul....', would not constitute mala fide. In this context, he reiterated that the petitioner does not possess the requisite qualifications nor the qualifying service for being appointed as the Chief Engineer.

15. The question that arise, is whether the above aspect of the matter, namely, the charges being false and flimsy and in the light of the explanation offered by the petitioner, would it be proper at this stage to go into all these questions The Supreme Court in one of its recent judgment on the point in State of Orissa v. Vimal Kumar Mohanty : (1995)ILLJ568SC , even while holding that suspension is not a punishment and it would be another thing if the action is actuated by mala fide, arbitrary or for ulterior purpose, when there are serious allegations the Court or the Tribunal should not interfere in the order of suspension. It was a case where the Tribunal had interfered and the Supreme Court set aside the order.

16. Whether an employee should or should not continue in office, pending departmental enquiry is a matter to be considered by the authority. As has been pointed out by the Supreme Court in U.P. Rajya Krishi Utpadan Mandi Parishad v. Sanjib Rajan (1993) Suppl 3 SCC 482, the Court should not interfere with the

order of suspension, unless it is malafide, and without there being even prima facie evidence to connect the delinquent with the misconduct charges.

17. Applying the above test, except for a bald assertion that political heavy weights who conspired to oust the petitioner from the post of Chief Engineer there is no material on record to make out a prima facie case of malafide. Reading the charge sheet, in just apposition with petitioner's explanations, it can not be said that the petitioner can not be connected with the misconduct charged. Any minute examination and elaboration, and the comparison, is neither necessary nor desirable at this stage lest it prejudices either party at the departmental enquiry, which it is yet to commence. In view of the foregoing discussion, this petition fails. It is accordingly dismissed with no cost.

13. Having regard to the serious allegation of charge against the writ petitioners for which they are placed under suspension and also the materials placed before this Court and also the ratio laid down by the Apex Court as well as this Court in the cases discussed above, this Court is of the considered view that it would not be appropriate to interfere the suspension orders merely because there is delay in submitting charge sheet thereby resulting to delay in departmental proceedings against the writ petitioners.

14. The next question is whether or not the respondents will allow the petitioners to place under suspension indefinitely. The Apex Court in *O.P. Gupta v. Union of India and Ors.* : (1988)ILLJ453SC held that it is a clear principle of natural justice that the delinquent officer when placed under suspension is entitled to represent that the departmental proceedings should be concluded with reasonable diligence and within a reasonable period of time. If such a principle were not to be recognized, it would imply that the executive is being vested with a totally arbitrary and unfettered power of placing its officers under disability and distress for an indefinite duration. There is no presumption that the Government always act in a manner which is just and fair. The relevant portion of para No. 15 of the SCC in *O.P. Gupta v. Union of India and Ors.* (supra) reads as follows:

15...In the case of *Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nadkarni* the Court held that the expression 'life' does not

merely connote animal existence or a continued drudgery through life. The expression 'life' has a much wider meaning. Suspension in a case like the present where there was no question of inflicting any departmental punishment prima facie tantamount to imposition of penalty which is manifestly repugnant to the principles of natural justice and fair play in action. The conditions of service are within the executive power of the State or its legislative power under the proviso to Article 309 of the Constitution, but even so such rules have to be reasonable and fair and not grossly unjust. It is a clear principle of natural justice that the delinquent officer when placed under suspension is entitled to represent that the departmental proceedings should be concluded with reasonable diligence and within a reasonable period of time. If such a principle were not to be recognized, it would imply that the executive is being vested with a totally arbitrary and unfettered power of placing its officers under disability and distress for an indefinite duration.

15. The Apex Court in *Government of A.P. v. Sivarama* : (1990) IILLJ386SC held that when there is no prescribed period of suspension in the Rule it would not come to an end after six months. It would continue till it is revoked though it is necessary to review the case once in six months in the light of the instructions. In the present case also as per the instructions of the Government of India adopted by the Government of Manipur vide G.I., C.S. (Dept. of Per.), O.M. No. 39/39/70-Ests. (A), dated the 4th February, 1971 charge sheet in all the departmental proceedings should be filed within 3 (three) months of the date of suspension. It is, only an executive instruction. No doubt, it will not be sufficient enough to quash the suspension order only because of non submission of charge sheet within three months of the date of suspension.

16. The Apex Court in *P.L. Shah v. Union of India and Anr.* : 1967 CriLJ1390 held that an order of suspension is not an order imposing punishment on a person found to be guilty. It is an order made against him before he is found to be guilty to ensure smooth disposal of the proceedings initiated against him. Such proceedings should be completed as expeditiously in the public interest and also in the interest of the Government servant concerned. The subsistence allowance is paid by the Government so that the Government servant against him an order of suspension is passed on account of the pendency of any disciplinary proceeding

or a criminal case instituted against him would maintain himself and his dependant until the departmental proceeding or the criminal case, as the case may be, comes to an end and appropriate orders are passed against the Government servant by the Government regarding his right to continue in service etc. depending upon the final outcome of the proceedings instituted against him. The very nomenclature of the allowance make it clear that the amount paid to such a Government servant should be sufficient for bare subsistence in this world in which the prices of the necessities of life are increasing every day on account of the conditions of inflation obtaining in the country. It is also further to be noted that a Government servant cannot engage himself in any other activity during the period of suspension. The Apex Court, again, in *State of Rajasthan v. B.K. Meena and Ors.* : (1997)ILLJ746SC held that it is all the more in the interest of the charged officer that proceedings are expeditiously concluded. Delay in completing the disciplinary proceedings really works against the charged officer. It is true that not all the disciplinary proceedings are based upon the two charges; some of them may be unfounded. It may also be that in some cases charges are levelled with oblique motive. But these possibilities do not detract from the desirability of early conclusion of the disciplinary proceedings. Para 15 of the SCC in *State of Rajasthan v. B.K. Meena and Ors.* (supra) read as follows:

15. We are quite aware of the fact that not all the disciplinary proceedings are based upon the charges; some of them may be unfounded. It may also be that in some cases, charges are levelled with oblique motives. But these possibilities do not detract from the desirability of early conclusion of these proceedings. Indeed, in such cases, it is all the more in the interest of the charged officer that the proceedings are expeditiously concluded. Delay in such cases really works against him.

17. It is also fairly well settled that there shall not be selective suspension of the officers where there is a record which shows that other officers are prima facie involved for the same misconduct or/irregularity charge for which one of the officers is placed under suspension and also that the officer cannot be kept under suspension for an indefinite period, particularly in the situation where many more officers may ultimately found involved. Ref: *K. Sukhendar Reddy v. State of A.P.*

and Anr. : (2000)ILLJ474SC . In the Secretary to the Government of India and Anr. v. K. Munniappan : [1997]3SCR327 , there was a charge of embezzlement of public fund by several persons. Unless and until an in-depth investigation is done, there would be a little scope to identify the persons involved in the crime to take up follow up actions against the persons as per Rule. A threadbare investigation is required to be undertaken by the Investigating Officer and, therefore, in the nature of the situations, it would be difficult to find fault with the authorities for not completing the investigation expeditiously. However, in that case, the Apex Court directed the authority to have the investigation completed as expeditiously as possible and take appropriate actions on an urgent basis. This Court in Sanik Lal Mukhia v. Union of India and Ors. 2004 (3) GLT 441 by following the earlier decision of this Court in Dhirendra Kumar Barthakur v. State of Assam and Ors. (1983) 2 GLR 459 and Jahirul Haque Choudhury v. State of Assam and Ors. (1993) 1 GLR 207 held that there is no doubt that there must be reason to justify an order of suspension and that an order of suspension cannot be continued for a long time without any attempt to bring to its logical end.' In that case, the writ petitioner had been suspended for nearly a year without any initiation of disciplinary proceedings and also from the fact it also reveals the necessity of a detailed investigation. In the context of that case, this Court directed the authority to complete the departmental enquiry against the writ petitioner within three months from the date of passing the order, failing which, the petitioner will be entitled to reinstatement in service. However, his reinstatement will not stand on the way of the departmental proceedings.

18. The Constitution Bench of the Apex Court in Ghanashyam Das Shrivastava v. State of Madhya Pradesh : (1973)ILLJ411SC held that the subsistence allowance shall be paid to the delinquent officer and the proceeding of the departmental enquiry will be vitiated if the delinquent could not participate the disciplinary inquiry because of the non payment of subsistence allowance. The Apex Court in State of Rajasthan v. B.K. Meena and Ors. : (1999)ILLJ 1094 SC held that non payment of subsistence allowance is an inhuman act which has an unpropitious effect to the life of an employee. The act of non payment of subsistence allowance can be likened to slow poisoning as the employee, if not permitted to sustain himself on account of non payment of subsistence allowance would gradually starve himself

to death. Para 29 and relevant portion of para 31 of the SCC in *State of Rajasthan v. B.K. Meena and Ors.* (supra) reads as follows:

29. Exercise of right to suspend an employee may be justified on the facts of a particular case. Instances, however, are not rare where officers have been found to be afflicted by 'suspension syndrome' and the employees have been found to be placed under suspension just for nothing. It is their irritability rather than the employee's trivial lapse which has often resulted in suspension. Suspension notwithstanding, nonpayment of Subsistence Allowance is an inhuman act which has an unpropitious effect on the life of an employee. When the employee is placed under suspension, he is demolished and the salary is also paid to him at a reduced rate under the nick name of 'Subsistence Allowance', so that the employee may sustain himself. This Court in *O.P. Gupta v. Union of India* : (1988)ILLJ453SC made the following observations with regard to Subsistence Allowance (para 15 of AIR):

An order of a suspension of Government servant does not put an end to his service under the Government. He continues to be a member of the service in spite of the order of suspension. The real effect of suspension as explained by this Court in *Khem Chand v. Union of India* : (1959)ILLJ167SC is that he continues to be a member of the Government service but is not permitted to work and further during the period of suspension he is paid only some allowance-generally called subsistence allowance-which is normally less than the salary instead of the pay and allowances he would have been entitled to if he had not been suspended. There is not doubt that an order of suspension, unless the departmental inquiry is concluded within a reasonable time, affects a Government servant injuriously. The very expression 'subsistence allowance' has an undeniable penal significance. The dictionary meaning of the word 'subsist' as given in *Shorter Oxford English Dictionary*. Vol. II at p. 2171 is 'to remain alive as on food; to continue to exist--Subsistence' means--means of supporting life, especially a minimum livelihood.

(Emphasis supplied)

31...The Fundamental Rights, including the Right to Life under Article 21 of the Constitution or the basic human rights are not surrendered by the employee. The

provision for payment of Subsistence Allowance made in the Service Rules only ensures non-violation of the right to life of the employee. That was the reason why this Court in *State of Maharashtra v. Chandherbhan* : (1983)ILLJ256SC struck down a Service Rule which provided for payment of a nominal amount of Rupee one as Subsistence Allowance to an employee placed under suspension. This decision was followed in *Fakirbhai Fulabhai Solanki v. Presiding Officer* : (1986)ILLJ124SC and it was held in that case that if an employee could not attend the departmental proceedings on account of financial stringencies caused by nonpayment of Subsistence Allowance, and thereby could not undertake a journey away from his home to attend the departmental proceedings, the order of punishment, including the whole proceedings would stand vitiated. For this purpose, reliance was also placed on an earlier decision in *Ghanshyam Das Shrivastava v. State of Madhya Pradesh* : (1973)ILLJ411SC .

19. Having regard to the ratio laid down by the Apex Court in the cases discussed above, this Court is of the considered view that the respondent/State Government has not been vested with the unfettered power for placing the petitioners under suspension for an indefinite period, it would be in the interest of the petitioners and also in the interest of good administration that the truth or falsity on the charge against the petitioners are determined promptly.

20. Further, the respondents should pay the subsistence allowance to the petitioners during the period of their suspension inasmuch as the non payment of subsistence allowance would amount to violation of the fundamental right including the right to life under Article 21 of the Constitution or the basic human rights for the reasons discussed above.

CONCLUSION

21. This Court is not interfering with the impugned suspension orders for placing the writ petitioners under suspension. However, State respondents are directed to complete the contemplated inquiry as expeditiously as possible not later than 8 (eight) months from the date of receipt of this judgment and order and take appropriate actions on an urgent basis, failing which the writ petitioners will be entitled to reinstatement in service for which, the State respondents should issue

necessary orders. But the reinstatement of the writ petitioners will not stand on the way of the departmental proceedings. The Respondents should pay the subsistence allowances to the petitioners during the period of their suspension.

22. Writ petitions are allowed to the extent mentioned above. Parties are to bear their own costs.

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