

Devendra Kumar Gaur Vs. Executive Engineer, Minor Irrigation Division and ors.

Devendra Kumar Gaur Vs. Executive Engineer, Minor Irrigation Division and ors.

SooperKanoon Citation : sooperkanoon.com/489735

Court : Allahabad

Decided On : Jul-27-1999

Reported in : (1999)2UPLBEC1631

Judge : O.P. Garg, J.

Acts : Indian Penal Code (IPC) - Sections 120B, 467, 468 and 471

Appeal No. : Civil Misc. Writ Petition No. 30550 of 1999

Appellant : Devendra Kumar Gaur

Respondent : Executive Engineer, Minor Irrigation Division and ors.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Mahesh Gautam, Adv.

Disposition : Petition allowed

Judgement :

O.P. Garg, J.

1. Heard Sri Mahesh Gautam, learned Counsel for the petitioner as well as learned Standing Counsel. The petitioner is an Assistant Boreing Technician in the

Department of Minor Irrigation, U.P. He was placed under suspension by order dated 7-7-1999 on account of his involvement in the criminal case under Sections 120B, 467, 468 and 471 IPC and the fact that he was detained in custody for a period of more than 48 hours. It was urged that the petitioner has since been released on bail by the learned Sessions Judge, Bulandshahr by order dated 23-6-1999. Besides the petitioner, a number of other employees were suspended. Learned Counsel for the petitioner pointed out that the suspension order does not even faintly or remotely suggests that a departmental enquiry is contemplated against the petitioner. According to learned Counsel for the petitioner, it is not known how long the criminal proceedings will take to conclude and in view of the decisions of this Court reported in *Jagjit Singh v. State of U.P.*, 1995(1) ESC 329 (All) and *Ram Chetan v. State of U.P. and Ors.*, (1996) 1 UPLBEC 416, an employee, particularly, a class IV employee who is a person of petty means and has comparatively an insignificant role to play in the criminal case of squandering of public funds cannot be continued under suspension for an indefinite period till finalization of criminal trial, which is bound to consume a considerable long period. A reference was also made to another decision of this Court in *Hari Nath Sharma v. State of U.P. and Ors.*, 1997(3) ESC 1833 (All), in which it was held that if no departmental enquiry is contemplated against a Government servant, he cannot be placed under suspension

2. Exercise of right of suspend an employee may be justified on 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. Sometimes, it is their irritability rather than employee's trivial lapses, which has often resulted in suspension.

3. In the instant case, since no departmental enquiry is contemplated against the petitioner and it is not known how long it would take to conclude the criminal trial against the petitioner as well as other co-accused persons and taking into consideration the fact that the petitioner who is petty Class IV employee and is bound to receive reduced amount of subsistence allowance, which would act as a slow poison to him and his family members, I am inclined to keep in abeyance the order of suspension dated 7-7-1999.

4. Instead of dragging this writ petition unnecessarily as the legal position is well established and it can be decided at this stage, I propose to decide it finally with the direction that the impugned order of suspension dated 7-7-1999, Annexure 1 to the writ petition shall remain in abeyance and the petitioner shall be allowed to join his duties with immediate effect.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com