

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

S.B. Civil Writ Petition No. 1788/2024

Naresh Singh S/o Shri Santosh Singh, Aged About 49 Years,  
Resident Of 110, Bhagwati Nagar Ii, Kartarpura, Jaipur. Executive  
Engineer, Phed Division, Salubmar, District Salumbar.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Additional Chief Secretary, Public Health And Engineering Department, Government Secretariat, Jaipur.
2. Principal Secretary, Department Of Personnel, Government Of Rajasthan, Government Secretariat, Jaipur.
3. Deputy Secretary, Public Health And Engineering Department, Rajasthan, Jaipur.
4. Chief Engineer (Administration), Public Health And Engineering Department, Rajasthan, Jaipur.

----Respondents

Connected with S.B. Civil Writ Petition Nos.14416/2022,  
4733/2025, 14930/2024 & 4267/2025.

For Petitioner(s) : Mr. D.K. Godara, Mr. Pranjul Mehta,  
Mr. R.S. Saluja, Mr. Moti Singh, Mr.  
Tanwar Singh.

For Respondent(s) : Mr. Rajesh Panwar, Sr. Adv./ AAG with  
Ms. Meenal Singhvi, Mr. B.L. Bhati,  
AAG with Mr. Sandeep Soni, Mr.  
Sajjan Singh Rathore, AAG, Mr. N.K.  
Mehta, Dy. G.C. with Mr. Vaibhav  
Bang, Mr. Praveen Singh Chundawat,  
AGC, Mr. Rajesh Parihar, Ms. Jaya  
Dadhich.

**HON'BLE MR. JUSTICE ARUN MONGA****Judgment****21/02/2025**

1. Suspension of a Government servant, as per service jurisprudence, ordinarily, is and should be resorted to as a preventive measure, not punitive. Likewise, during or pre-trial detention of a suspect in criminal



jurisprudence is preventive and not punitive. But, the pressing question is, how to obviate preventiveness as a euphemism for punishment ? The harsh reality is that, irrespective of legal intent, both suspension and detention are often perceived with disdain by society, inflicting severe damage to one's public image and leading to profound demoralization. We are concerned here with the former.

1.1. 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 servant and causes stigma with seriously daunting effects. Even if the individual is later cleared of wrongdoing, the negative perception may not fully disappear.

2. Let us delve into the power to suspend when invoked either in contemplation of or due to pending disciplinary proceedings, more elaborately in the succeeding part.

3. The Government servants in the State of Rajasthan have been categorized as below:-

- (a). The State Services,
- (b). The Subordinate Services,
- (c). The Ministerial Services, and the
- (d). The Class IV Services.

3.1 Petitioners in the above bunch of five 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. Succinctly their cases are summed up in the following table :

Suspension Order (Date)	Case Name	Petitioner	Post	Reason for Suspension	Legal Grounds for Challenge	Duration of Suspension (as of 21.02.2025)	Current Status
07.2018	Jugal Kishore vs. State of Rajasthan (SBCWP No.4733/2025)	Jugal Kishore	Senior Clerk, Municipality Bhadra	Repeated intoxication at work, physical altercations, and abusive behaviour	Prolonged suspension without inquiry or charge sheet	6 years, 7 months, 11 days	No Charge sheet issued till date and no inquiry initiated.
21.01.2021	Ashok Kumar vs. State of Rajasthan (SBCWP No.14416/2022)	Ashok Kumar	Sanitation Worker	Alleged encroachment on govt/municipal land	Claims land occupation predates employment, making charges invalid	4 years, 1 month	Charge sheet dated 21.01.2021 issued, but inquiry is still pending
09.06.2023	Brajesh Chandra Mishra vs. State of Rajasthan (SBCWP No.14930/2024)	Brajesh Chandra Mishra	Junior Assistant	Alleged misconduct of putting unacceptable WhatsApp status, thus committing Violation of Rule 7 of Rajasthan Civil Services Conduct Rules, 1971	Suspension under Rule 13(a) of CCA Rules, 1958 challenged	1 year, 8 months, 12 days	Charge sheet dated 18.08.2023 issued, but no final outcome yet.
14.12.2023	Naresh Singh vs. State of Rajasthan (SBCWP No.1788/2024)	Naresh Singh	Executive Engineer, PHED	Alleged financial irregularities in work approvals	Suspension arbitrary; no charge sheet issued at the time of suspension	1 year, 2 months, 7 days	No charge sheet issued till date. Challenges both suspension order and Tribunal order dated 29.01.2024.
17.07.2024	Dinesh Kumar Suthar vs. State of Rajasthan (SBCWP No.4267/2025)	Dinesh Kumar Suthar	Lecturer (Commerce)	Alleged involvement in mass cheating as a vigilance supervisor	Petitioner claims he was on official duty elsewhere and was falsely implicated	7 months, 4 days	Charge sheet dated 08.08.2024 issued but inquiry is still pending.

4. Controversy herein revolves around scope and ambit of the core legal question concerning the suspension of an employee under the Rajasthan Civil Services (Classification, Control, and Appeal) Rules, 1958<sup>i</sup> (CCA Rules- for short). Rule 13 thereof, 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.*

(3) *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.

Rule 13(1)(a) of CCA Rules thus grants the appointing authority or a competent authority the power to suspend an employee when disciplinary proceedings are ‘contemplated’ or pending. It requires reporting to the appointing authority if suspension is ordered by a lower authority.



4.1. The distinction between 'contemplated' and 'pending' disciplinary proceedings is crucial. A disciplinary proceeding is considered 'pending' when a formal show cause notice or charge sheet has been issued, whereas 'contemplated' indicates an earlier stage. The Rule 13(1)(a) empowers authorities to suspend a Government servant when disciplinary proceedings are 'contemplated' or 'pending'.

4.2. 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;"*

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5. It is borne out that in few of the writ petitions, reply is yet to be filed. Nevertheless, adjudication here is qua the legality and administrative propriety of the suspension orders as per ex facie contents thereof. To that extent, facts of individual cases are not very relevant. In any case, the contents of the impugned orders are not disputed, being the official record.

5.1 General stand taken, wherever reply filed, is that the suspension order is in accordance with Rule 13. Until the conclusion of the disciplinary proceedings against the delinquent Government servant, to



revoke the suspension order or not is the absolute discretion of the competent authority. Therefore, no intervention of this Court is warranted and writ petitions be thus dismissed.

6. In the light of above backdrop, I have heard the rival contentions and perused the case files.

#### CONTENTIONS ON BEHALF OF THE PETITIONERS

7 Learned counsels for the petitioners argue the petitioners' suspension has led to a denial of their other rightful benefits, including annual grade increments and selection grades. Such financial benefits are crucial for the career advancement and stability of any employee. The continuation of the suspension, coupled with the denial of these benefits, renders the suspension orders unlawful.

7.1 They contend that though suspension may not be a formal punishment, but the reality is that the conditions under which a suspended employee operates are highly detrimental to their career and well-being. The petitioners have been unduly subjected to this burden, which has resulted in significant financial and professional hardship.

7.2 They would argue that the petitioners' suspension is not only illegal, but also unnecessarily prolonged. The denial of financial benefits further compounds their agony. Hence, the suspension order be quashed and set aside and the respondents may be directed to forthwith reinstate the petitioners with all consequential benefits.

8. Mr. Pranjul Mehta, learned counsel (in CWP No.4267/2025) supplemented the above arguments with his written submission to urge, *inter alia*, that:

- A suspension order must be based on tangible and reliable material where the competent authority applies its mind and reaches a *prima facie* conclusion.





- Contemplation should not be arbitrary; it requires credible material justifying the initiation of formal proceedings.
- In support, he referred to various dictionary meanings of interpretation of the word 'Contemplated', since no statutory definition exists to help understand the term:

- **Black's Law Dictionary:** 'Contemplation' involves thoughtful consideration with an intention to act.
- **Oxford Dictionary of Law:** Defines 'contemplate' as sustained attention or anticipation.
- **Merriam-Webster's Law Dictionary:** Describes it as the act of expecting or planning something.

8.1. He also relies on precedents and analysis contained in several rulings in his endeavour to provide clarity on the interpretation of 'contemplated'. Same are as below :

**I. State of Haryana vs. Dinesh Singh<sup>ii</sup>**– (Supreme Court)

The Supreme Court analyzed the meaning of 'contemplation' of disciplinary proceedings as below:-

*“34. The word contemplate has different meanings in the English Dictionary. It can mean ‘to think deeply at length’; to have in view as a probable intention; to think about. According to us, the second meaning comes closest to the sense in which the rule-maker intended the rule to operate. Probability is a step ahead of possibility through some of the rulings which have interpreted the word ‘contemplate’ in similar contexts.”*

**II. Kul Bhusan Chopra v. Punjab National Bank<sup>iii</sup>**– (Delhi High Court)

Held that disciplinary proceedings are considered 'contemplated' when a decision is taken based on objective material.

**III. State of U.P. v. Jai Singh Dixit<sup>iv</sup>**– (Allahabad High Court)

Stated that contemplation requires a formal disciplinary inquiry being reasonably expected in near future.





**IV. Yogesh Acharya vs. State of Rajasthan<sup>v</sup>**– (Rajasthan High Court, Jodhpur)

Ruled that an employee cannot be suspended when no formal proceedings are contemplated at the time of suspension.

**V. Dr. Subash Chand v. State of U.P.<sup>vi</sup>**– (Allahabad High Court)

Established that preliminary inquiry must provide substantial material to justify contemplation of disciplinary proceedings.

8.2. Mr. Pranjul Mehta would further urge that the legal threshold for placing an employee under suspension requires:

- Objective consideration of evidence.
- Proper application of mind by the competent authority.
- Ensuring that suspension is not a tool of harassment.
- Timely completion of disciplinary proceedings to uphold the principles of justice and fairness.
- A mismatch between the reason for suspension and the charges eventually framed indicates a lack of due application of mind at the time of suspension.

8.3. He would cite Supreme Court in *Ajay Kumar Choudhary vs. Union of India<sup>vii</sup>* & *Prem Nath Bali Vs. Registrar High Court of Delhi & Anr.<sup>viii</sup>* and argues that it is held therein that disciplinary proceedings must be completed within six months to prevent undue hardship to the employee.

9. All other learned counsels for the petitioners, in unison, adopted the arguments of Mr. Pranjul Mehta.

9.1. In addition they would vehemently argue that unless charge-sheet is issued, Rule 13 of The Rajasthan Civil Services (Classification, Control And Appeal) Rules, 1958 cannot be invoked to suspend a government servant. To fortify their argument, they would draw my attention to







judgments rendered by this Court in *Dr. B.M. Bohra Vs. State of Rajasthan*<sup>ix</sup>, *Ram Chandra Tripathy Vs. State of Rajasthan & Ors.*<sup>x</sup>, *Ashok Singh Vs. State of Rajasthan & Ors.*<sup>xi</sup> & *Karni Singh Vs. State of Rajasthan & Ors.*<sup>xii</sup>

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

10. *Au contraire*, learned counsels for the respondents led by Mr. Rajesh Panwar, Sr. Adv. & AAG submit that the petitioners cannot directly approach this Court under Article 226 of the Constitution of India to challenge their suspension orders. An alternative statutory remedy under Rule 22, *ibid* to file an appeal has not been availed. The appellate remedy is an adequate and effective legal recourse. The writ petitions deserve to be dismissed at the very threshold on this ground alone.

10.1 On merits, they would canvass that the petitioners have been placed under suspension in accordance with Rule 13(1) of the CCA Rules.

10.2 Suspension is not a penalty or punishment but a procedural step pending the disciplinary inquiry or in contemplation thereof.

10.3. The suspension orders have been passed objectively, with no extraneous considerations, and no fundamental or legal rights have been violated.

10.4 Additionally, they argue that the petitioners' suspensions are to prevent their interference with the proposed / contemplated disciplinary proceedings or the ongoing, wherever commenced.

10.5. They would also submit that State Government has issued various administrative circulars and special committees have also been constituted to review the suspension orders. In light of the same, law



will take its own course in accordance thereof. No grounds for interference by this court are thus made out.

### **DISCUSSION AND ANALYSIS**

11. I shall now proceed to render my opinion by recording reasons thereof and after discussing and analysing merits and demerits of the rival contentions, applicable Rules and the case law, in the succeeding part hereinafter.

12. What is suspension ? In the light of that, the issue to be determined is :

What is the meaning and scope of the term in 'contemplation' of or 'pending' the disciplinary proceedings in the context of Rule 13(1)(a) for invoking the power of suspension ?

13. First and foremost, let us analyze what is 'suspension' and what is the meaning of words 'contemplated' and 'pending' disciplinary proceedings.

13.1 All three words Suspension, contemplated and pending have not been defined in the statute book i.e. CCA Rules of 1958.

13.2 **Meaning of "Suspension"**- According to Black's Law Dictionary it means "the temporary withdrawal from employment, as distinguished from permanent severance" or "the act of temporarily delaying, interrupting, or terminating something".

13.3. According to "**Oxford Dictionary**" it means- "the action of suspending or condition of being suspended; the action of debarring or state of being debarred, especially for a time from function or privilege; temporary deprivation of one's office of position."

13.4. Speaking judicially, it is temporary phase of the disciplinary proceedings and is not a penalty. It is neither a reduction in rank, nor a





removal from service. Thus, no prior notice is required to be given or explanation to be called for before passing an order of suspension. As such the Article 311 (2) of the Constitution is not attracted in cases of suspension.

14. Before proceeding further, pertinent it is to note that, originally, prior to the enactment of CCA Rules 1958, suspension was a punishment. Any preventive suspension in contemplation of departmental inquiry was impermissible as per Rajasthan Civil Services-CCA Rules, 1950 (repealed on enactment of CCA Rules 1958 on 11.12.1958). Rule 15 of the repealed CCA Rules 1950 is reproduced as under :-

***THE RAJASTHAN CIVIL SERVICES (Classification, Control and Appeal) RULES, 1950<sup>xiii</sup>***

*“15. The following penalties may for good and sufficient reasons and as here-in-after provided be imposed upon the members of the services specified in any of the Classes I to IV in Rule 7 :-*

- (i) *Censure;*
- (ii) *Withholding of increments or promotion, including the stoppage at an efficiency bar;*
- (iii) *Reduction to a lower post or time-scale or to a lower stage in the time-scale; or in the case of pension to an amount lower than that due under the rules;*
- (iv) *Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of Law, rules or orders;*
- (v) *Suspension;*
- (vi) *Removal from the civil service, which does not disqualify for future employment including compulsory retirement before the age of superannuation; and*
- (vii) *Dismissal from the civil service which ordinarily disqualifies from future employment.*

*Explanation 1 xxx xxx xxx*

*Explanation 2 xxx xxx xxx*

*Explanation 3 xxx xxx xxx*

*Explanation 4 xxx xxx xxx*

*Explanation 5.- Suspension pending enquiry is not a punishment.”*

Thus, unlike in CCA Rules, 1950, preventive suspension in contemplation of disciplinary proceedings is permitted in the CCA Rules 1958, as per Rule 13, thereof. However, by the repeal of CCA Rules



1950, the sting of punishment was taken out from suspension, even if it is inflicted prior to commencement of disciplinary proceedings. *Albeit*, it merely remains a legal intent and not the ground reality.

### **15. Meaning of the term "Contemplation":**

In *H. Surendra Shetty v. Vijaya Bank, MG Road Bangalore*<sup>xiv</sup>, the Karnataka High Court, elaborated on the meaning of "contemplation" through the following observations :-

*"20. The meaning given in Black Law Dictionary, 5<sup>th</sup> edition (1979) for the word 'contemplation is as follows: "The act of the mind in considering with attention. Continued attention of the mind to a particular subject. Consideration of an act or series of acts with the intention of doing or adopting them. The consideration of an event or state of facts with the expectation that it will transpire" Thus, contemplation is a process that goes on in the mind and falls far short of a decision' which refers to the culmination of the process of contemplation in arriving at a definite conclusion as to the next course of action to be taken under a set of facts with the intention of carrying out a certain act. Thus, mere contemplation cannot serve as the basis for adopting the sealed cover procedure as it does not answer to the tests adopted in the decisions relied upon by learned Counsel Ramadass to justify the adoption of the sealed cover procedure."*

### **16. Meaning of Pending disciplinary proceedings**

In *State of Haryana Vs. Dinesh Singh*, the Supreme Court held as under :-

*"33. It is now trite that a disciplinary proceeding is said to be pending when a formal charge-sheet is issued to the employee. The stage at which action can be contemplated has to, quite obviously, come before the time at which a disciplinary proceeding becomes pending (i.e. at the time of issuing a formal chargesheet). At what point between the employer having received information / knowledge of an alleged misconduct committed by the employee and the ultimate initiation of disciplinary proceedings are contemplated? The entire challenge before us is to find that point."*

17. Reliance has since been heavily placed by the learned counsels for the respondents on administrative circulars issued from time to time. Reference may be had to one of the very early ones, issued after enactment of CCA Rules, 1958, on which hands could be laid, and same appears to be the very genesis of administrative caution for suspending





a government servant in contemplation of or during pendency of disciplinary proceedings, i.e. circular dated 17th March, 1960, which is quoted as below :-

***“Circular dated 17.03.1960 issued by Department of Personnel***

*Sub: Expeditious disposal of disciplinary proceedings.*

*Government have noticed that departmental proceedings against Government Servants under suspension are often delayed which not only causes undue harassment to the accused officials involved but also result in wasteful expenditure. Besides, such delays defeat the very purpose of enquiries as with the lapse of time it sometimes becomes difficult to achieve, the desired results. With a view, therefore, to guard against such delays and to ensure expeditious disposal of such enquiries, Government are pleased to lay down the following instructions. These should be strictly followed in all cases of suspension of Government employees except where the employees are placed under suspension on account of investigation or trial of any criminal offence.*

*(1) Suspension should be resorted to with caution and only when one of the major penalties prescribed under the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958, is ultimately likely to be imposed on the delinquent Government servant or when he has been arrested on some criminal charge.*

*(2) Before passing orders regarding suspension the suspending authority should have before it both the preliminary report and the version of the delinquent employee so as to enable to comply with (1) above, as orders passed on the preliminary report alone are likely to be based on one sided version.*

*(3) After suspension efforts should be made to stick to the following time schedule:*

- (i) One week for framing and service of charge sheet and statement of allegations.*
- (ii) Two weeks for, submission of reply to the charge sheet. (This period generally gets prolonged as the Government servant normally wishes to inspect certain records before submitting his reply and it takes long time to collect the record. The heads of Departments, etc. should not take more than one week for this purpose and if necessary they should have the record collected through special messenger).*
- (iii) One week for examination of the reply received in response to the charge sheet.*
- (iv) If departmental enquiry is ordered, the following further time schedule should be observed:—*
  - (a) one week for preparing a formal charge sheet and statement of allegations and appointment of enquiry officer.*
  - (b) Two weeks for submission of reply by delinquent officer in response to the charge sheet.*





- (c) *one month for departmental enquiry.*
- (d) *Two weeks for examination of the enquiry report.*
- (e) *Two weeks for issue of show cause notice alongwith a copy of the Enquiry Officer's report.*
- (f) *Two weeks for reply to the show cause notice. (The same instructions will apply as indicated under (ii) of item 3 above.*
- (g) *one week for examination of reply to the show cause notice and issue of final orders.*

(4) *Priority slip "Suspension Case" should be introduced so that such cases receive prompt attention.*

(5) *With a view to have an overall appraisal of the bottlenecks delaying such cases, if a suspension case is finally disposed of beyond this prescribed time limit, the total time taken in its disposal should be reported to this department for the information of the Chief Secretary as well as Chief Minister, together with an indication of the stages at which it was unduly delayed.*

(6) *An annual statement for each calendar year showing the Government employees placed under suspension and the result of their departmental enquiries should be submitted by all the Heads of Departments to this department so as to enable the Government to exercise a check over the justifiability or otherwise of suspension cases.*

*The foregoing instructions should be adhered to in dealing with cases of both gazetted and non-gazetted employees."*

17.1. The Government, from time to time felt necessity of issuing administrative instructions to provide clarity in the matter of suspension and disciplinary proceedings & inquiries under CCA Rules of 1958. Being conscious that suspension and delay in disciplinary inquiries cause harassment apart from wasteful expenditure of public funds. All these executive circulars have been issued by the competent authorities of Administrative Reforms Department or the Department of Personnel under the rules of business, empowered to issue policy guidelines for general application in respect of all Government servants in different cadres of various services serving under the Government of Rajasthan.

17.2. Over passage of time, much water has passed under the bridge. A considerable evolution of administrative law has taken place by way of issuance of instructions / circular by the Offices of Chief Secretary as well as Department of Personnel. In chronological order, some of these<sup>xv</sup> are as below:-





**“Circular dated 07.02.1962 issued by Department of Personnel**

*Subject:— Expeditious disposal of departmental enquiry cases in respect of Government employees under suspension.*

*Under existing instructions the Disciplinary Authorities are required to finalise within six months departmental enquiry cases in respect of Government employees under suspension. The Government order No. D. 2900/F. 23(18) Appts (A) 58 dated 25th March 1958 and Circular No. D. 16633/S9/F. 19(27) Appts (A) 60 dated the 17th March, 1960 (copies enclosed) are specific on this issue. Government have repeatedly desired that the departmental enquiries against the suspended employees should be given top priority and personal attention by the disciplinary Authorities, as such a course of action obviates avoidable drain on the State Exchequer and hardship to the Government employees.*

*(2) The scrutiny of the annual statements for the year 1960 showing departmental enquiry cases pending in respect of suspended Government employees, received from the various heads of Departments, has however, revealed that the aforesaid instructions are not being strictly followed with the result that some of these cases have been pending for years. It has been further observed that in some cases the Enquiry Officers have taken a lot of time to complete the enquiries despite Government instructions to complete the departmental enquiries within a specified period. Certain enquiry Officers have been found to be committing serious procedural irregularities in conducting departmental enquiries, despite specific instructions on the subject vide Government circular No. D. 9988/F. 23(65) Appts (A)/57 dated the 21st August, 1957 (copy enclosed).*

*This negligence causes further prolongation of the departmental proceedings.*

*(3) Government have, therefore, been pleased to order that:—*

- (i) in exceptional cases if any delinquent Government employee has continued under suspension for a period exceeding two years (and he is not being prosecuted in a court of Law), the orders placing such an employee under suspension be immediately withdrawn without prejudice to*





the decision to be taken in the departmental enquiry case.  
 The decision as to how the period of suspension is to be treated in such a case should, however, be taken when the departmental enquiry against the delinquent is finally decided;

(ii)(a) in case where a delay exceeding one year is expected in finalising such a departmental enquiry prior approval of the Administrative Department be obtained by the Heads of Departments concerned;

and

(b) before according such an approval, the Administrative Departments should also examine whether the Enquiry Officer has been negligent in any respect in expeditiously conducting the department enquiry, and in case they come to a conclusion that the Enquiry Officer has displayed negligence, they should move the Appointments Department for initiating disciplinary proceedings against the Enquiry Officer concerned.

(iii) where on an appeal to the higher authority or as a result of a Court decision an appeal is accepted due to non-observance of the prescribed procedure either by the Enquiry Officer or the Disciplinary Authority departmental action should invariably be taken against the defaulting Enquiry Officer/Disciplinary Authority.

(4) These orders should be brought to the notice of all the Disciplinary Authorities.”

**Circular dated 27.04.1970 issued by Department of Personnel is reproduced below:**

*Sub: Suspension of Government servants.*

Government have issued directions from time to time for expeditious disposal of disciplinary proceedings against Government Servants and also laid down time schedule for various stages of disciplinary proceedings which were reiterated vide Circular No. F 2(9) Appts. (A.IID/64, dated 26.3.66. Certain broad guidelines in the matter of suspension of Government servants were





also laid down vide Order No.D.2900/F. 23(18) Appts (A)/58 dated 25.03.58<sup>xvi</sup> which are reproduced below:

*“Ordinarily a Government servant should be suspended,-*

*(1) when there is a strong prima facie case against him and the allegations involve moral turpitude, grave misconduct or indiscipline and willful refusal to carry out orders of superior authority;*

*or*

*(2) where there is a strong prima facie case against him which, if approved, would ordinarily result in his dismissal or removal from service and either—*

*(a) it is inadvisable that he should continue to perform the duties of his office,*

*or*

*(b) his retention in office is likely to hamper or frustrate the enquiry.”*

*It has been observed that neither the prescribed time schedule for the above guiding principles are being followed strictly. Finalisation of disciplinary proceedings are very much delayed resulting in prolonged suspension of Government servants which not only causes hardships to them but also puts an unnecessary strain on the State Exchequer. Sometimes, suspension is also resorted to in a routine manner which is not conducive to both the government and its employees.*

*It is, therefore, again enjoined upon the Heads of Departments/Officers competent to place Government Servants under suspension that great care and circumspection should be exercised in the matter of suspension of a Government servant and ordinarily one should be placed under suspension only when a departmental enquiry is pending or contemplated against him or when a criminal case is pending investigation or trial against him, and the gravity of the charge of the offence is such that, if proved, it will most probably lead to his removal or dismissal from service.*






*It is hoped that the matter will receive due attention at all levels and the Government will have no occasion to express their concern time and again.”*

17.3. From time to time, further executive circulars have been issued from the Department of Personnel as well as Chief Secretary. Same are reiterative of earlier ones with minor changes and are by way of further abundant clarifications / cautions to the administrative authorities. For the sake of brevity, instead of reproducing the same, few of the relevant ones pertaining to suspension in those cases where either disciplinary proceedings are pending or contemplated, have been succinctly summed up in the following table:-

<b>DATE</b>	<b>SUCCINCT CONTENTS OF THE CIRCULARS</b>
<p>10.01.2001 Issued by Department of Personnel. (tendered in course of hearing, marked as Annexure -A)</p>	<p><i>Guidelines regarding suspension of officers and serving of charge sheets upon those officers who are placed under suspension.</i></p> <p><i>Officers should be placed under suspension only in the following circumstances:-</i></p> <p><i>(i).Where an officer is caught red-handed in a trap proceeding organised by the Anti-Corruption Bureau, or</i></p> <p><i>(ii) Where a criminal case involving moral turpitude, embezzlement of funds or some other grievous offence is pending investigation. or trial against an officer, or</i></p> <p><i>(iii) <u>Where the officer concerned is prima facie guilty of some major lapse and disciplinary enquiry under Rule 16 of the CCA Rules is pending or contemplated against him and the gravity of the charge(s) is such that, if proved, it will most probably lead to his removal or dismissal from service,</u></i></p> <p><i>and</i></p> <p><i>(iv). <u>Where the retention of the officer concerned in office is likely to hamper or frustrate the inquiry or it is otherwise inadvisable that he should continue to perform the duties of his office.</u></i></p>
22.02.2005	<i>In supersession of the order of even number dated 19.04.99, for</i>



 <p>Issued by Department of Administrative Reforms (tendered in course of hearing, marked as Annexure -B)</p>	<p>state level officers, Committee of the following members was constituted to review the cases of suspension of officers/employees suspended due to disciplinary proceedings proposed or under consideration by the State Government: -</p> <ol style="list-style-type: none"> <li>1. Chief Secretary- ---Chairman</li> <li>2 Secretary to the Government of the concerned Administrative Department---Member</li> <li>3. Secretary to the Government, Department of Personnel--Member Secretary</li> </ol> <p>The Committee will submit its recommendation regarding continuation or reinstatement of the suspension of the officers.</p>
<p>10.03.2005 Issued by Department of Administrative Reforms (tendered in course of hearing, marked as Annexure -C)</p>	<p>Circular dated 22.02.2005 was amended to specify that <u>the committee will review its recommendations on the continuation or reinstatement of officers suspended for more than six months on a quarterly basis and submit them to the State Government.</u></p> <p><b>[In tune with Rule 10(6) of CCA Rules of UOI, Rule 13 of CCA Rules, 1958 does not have statutory mandate of time period like Rule 10(6)-so the lacuna has been filled by this.]</b></p>
<p>20.10.2005 Issued by Department of Administrative Reforms (tendered in course of hearing, marked as Annexure -D)</p>	<p>On similar pattern, as was the case with state level officers, a committee was constituted to review the suspension cases of ministerial, subordinate, and class-IV employees of the State Government.</p> <p>The committee constitution is mandated as below :-</p> <ol style="list-style-type: none"> <li>i. Chaired by the Secretary to the Government, Department of Personnel,</li> <li>ii. with the Deputy Secretary of Personnel (A-3/Enquiry) as member and</li> <li>iii. Deputy Secretary, Personnel (B-1) as member secretary</li> </ol> <p><u>Meetings to be held every three months to assess suspension cases exceeding six months and determine whether suspension should continue or the employee should be reinstated. Based on the committee's recommendations, the Deputy Secretary, Personnel (B-1) Department, will take appropriate action. The administrative responsibility for the committee will lie with the Personnel (A-3) Department.</u></p>





17.4. In fact, for State level Government Officers, a circular/directive dated 12.04.2022 has been issued qua suspension where disciplinary proceedings are contemplated or pending. It is deemed appropriate that it be rather reproduced *in verbatim*, before proceeding further.

Translated version of the same is as below:-

**“Government of Rajasthan  
Personnel (A-3 / Enquiry) Department**

**No. 9(2)(4) Personnel / A-3 / Enquiry / 2018**

**Jaipur, dated 12 APR 2022**

**Circular**

*Regarding the suspension of the state level officers, detailed guidelines have been issued by the Department of Personnel through circulars dated 31.07.2018 and 24.08.2021, according to which the Department of Personnel, as well as the Additional Chief Secretary / Principal Secretary / Secretary to the Government of the Administrative Department, have been given powers to suspend the officials in State Government service in necessary circumstances.*

*It has often been observed that the said instructions are continuously disregarded by the administrative departments from time to time, including not sending the confirmation proposals for several months after suspension, reinstating the suspended officer at their own level without bringing the case to the notice of the Department of Personnel, not sending proposals for disciplinary action for several years after the suspension order, etc.*

*Therefore, keeping in view the above circumstances, the following instructions are issued in supersession of the earlier circulars dated 31.07.2018 and 24.08.2021:*

- 1. For the suspension of State Service officers, along with the Department of Personnel, the Additional Chief Secretary/Principal Secretary/Secretary to Government, Administrative Department, can also issue suspension orders, if necessary, as per the circumstances.*
- 2. Within 15 days of the said suspension order, the case of confirmation of suspension, along with the proposal for disciplinary action, must be submitted to the Department of Personnel. If for any reason it is not possible to submit the proposal for disciplinary action within 15 days, then the proper reason for not doing the same must be sent/mentioned within 15 days.*





3. After confirmation of the suspension order by the Administrative Department, proposals for disciplinary action shall necessarily be submitted to the Department of Personnel within 45 days.

All administrative departments will strictly follow the above instructions. If these are disregarded, the matter will be brought to the notice of the Chief Secretary, and further action will be taken.

(Hemant Kumar Gera)  
Principal Secretary to Government”

17.5. Pertinently, all the circulars / administrative guidelines / directives are copied to Secretary to Governor, Principal Secretary to Chief Minister, Senior Deputy Secretary, Chief Secretary's Office, All Additional Chief Secretaries / All Principal Secretaries / All Secretaries to the Government, All Divisional Commissioners, All Department Heads / All District Collectors, Joint Director, Computer Cell, Department of Personnel, Reserved Records.

18. From collective reading of abovesaid executive circulars / directives, before proceeding further, it is deemed appropriate to cull out / formulate the following administrative principles or propositions to be borne in mind for causing suspension of any employee or continuance thereof :-

**I. Administrative Principles for Suspension of a Government Servants Class I to IV (Only in case of disciplinary proceedings- contemplated or pending) -**

**A. Pre-conditions for Suspension :**

Suspension must be preceded by objective consideration of

- i. the nature and seriousness of allegations.
- ii. Availability of credible material indicating misconduct.
- iii. The necessity of immediate suspension in contemplation of or pending disciplinary proceedings.

**B. Procedural Requirements :**



- i. The suspension order must be in writing and should explicitly state whether the disciplinary proceedings are contemplated or pending.
- ii. If suspension is ordered by an authority lower than the appointing authority, it must be reported immediately to the appointing authority with justifications.
- iii. The suspension order should not be issued arbitrarily or as a punitive measure.

**C. When can suspension in contemplation be ordered :**

- i. Disciplinary proceedings shall be deemed 'contemplated' when the competent authority, based on tangible and reliable material, applies its mind and determines the need for subsequent formal disciplinary action / proceedings.
- ii. A preliminary fact-finding inquiry alone does not constitute 'contemplation' unless it leads to a decision to initiate formal proceedings. (Refer Circular dated 17.03.1960)
- iii. Suspension should not be based on mere speculation or unverified allegations.

**D. Grounds of suspension :**

- i. When there is a strong *prima facie* case involving serious charges justifying major penalties. (Refer Circulars dated 27.04.1970 and 10.01.2001)
- ii. Allegations likely to result in dismissal or removal.
- iii. Situations where the employee's continued presence might hamper inquiry or compromise the department's integrity or discipline or cause delay in pending proceedings, if he does not remain suspended.

**E. Timelines for Disposal of Cases :**





- i. The competent authority must document reasons for suspension and issue show cause notice or charge sheet, as it may deem fit, within reasonable time after passing of suspension order.
- ii. Efforts must be made to conclude disciplinary proceedings within six months of suspension, failing which reasons be recorded in writing by head of the department.
- iii. Recommended time schedules ought to be one week to frame charges; two weeks for the employee's response; one month for conducting inquiry and two weeks for examination of inquiry report and issuance of final orders. In case of non-compliance of the time schedule, reasons in writing must recorded on the administrative file. (Refer Circular dated 17.03.1960)
- iv. If a formal charge sheet is not issued within a reasonable time, the suspension must be reviewed and reasons recorded, either way, for further decision / recourse.

**F. Accountability for Delays must be fastened :**

- i. Delays in resolving pending disciplinary cases must be reported to higher authorities, with details of hurdles and reasons in writing for prolonged suspension.
- ii. Heads of departments must submit quarterly and annual written reports on suspensions to the review committees. (Refer Circular dated 20.10.2005)

**G. Review and Duration of Suspension :**

- i. A suspension order should be periodically reviewed by the committees i.e. every four months, to assess its further necessity. (Refer Circular dated 10.03.2005)



- ii. If no substantial progress is made in the disciplinary proceedings within six months, the suspension should be reconsidered by the committee or even by the competent authority to suspend.
- iii. The suspending authority should monitor and ensure that disciplinary inquiries are conducted expeditiously.

## II. Additional Administrative Principles for Suspension of State level/gazetted officers :-

While some of the administrative instructions issued from time to time are common to all, but there are certain administrative directives / instructions which have been made applicable only to the State services officers as they have been given privileged status owing to their superior nature of services.

Following directives as per administrative circular dated 12.04.2022 mentioned hereinabove can thus be culled out in their case:-

- i. Within 15 days of suspension, the case for confirmation and a disciplinary action proposal must be submitted to the Department of Personnel.
- ii. If the proposal cannot be submitted within this period, a valid reason in writing must be provided to the suspended officer.
- iii. If the suspension is confirmed, the disciplinary action proposal must be submitted by the Administrative Department to the Department of Personnel within 45 days.
- iv. Non-compliance shall be reported to the Chief Secretary for further action to be taking against the erring official of the Administrative Department.



19. A failure to adhere to the aforesaid principles of administrative law by the suspending authority / disciplinary authority may not render the suspension order illegal per se, but shall give right to the suspended Government servant to seek revocation of his suspension either by approaching the suspending authority or by the appellant authority and / or reviewing authority as the case may be.

20. It needs to be noted that more often, competent administrative authorities of the state are not following the instructions/administrative directives (as referred and reproduced above) in cases where officials are suspended either in contemplation of or during pendency of disciplinary proceedings or where case / inquiry is sub-judice.

20.1 Invariably, suspension orders are being passed very mechanically exercising the dominant position, without following Rules/due process of law. This causes lot of harassment, humiliation and financial hardship to the delinquent employee adversely affected by such violations on one hand and wasteful expenditure from State exchequer on the other hand. They have to run from pillar to post including approaching the Courts for relief. This also in turn results in considerable addition to administrative work of the concerned authorities and that of the Courts. Ultimately, all this is against the larger public interest and the department as well.

21. Supreme Court in *Ramanna Dayaram Shetty v. National Airport Authority of India*<sup>xvii</sup>, held as under:—

*“It is a well settled rule of administrative law that an executive authority must be rigorously held to be standards by which it professes its actions to be judged and it must scrupulously observe those standards on pain of invalidation of an act in violation of them. This rule was enunciated by Mr. Justice Frankfurter in Viteralli v. Saton where the learned Judge said:*

*“An executive agency must be rigorously held to the standards by which it professes its action to be judged*



*Accordingly, if dismissal from employment is based on a defined procedure, even though generous beyond the requirements that bind such agency, that procedure must be scrupulously observed. This judicially evolved rule of administrative law is now firmly established and, if I may add, rightly so. He that takes the procedural sword shall perish with the sword.”*

*This Court accepted the rule as valid in India in A.S. Ahluwalia v. Punjab and subsequent, decision given in Sukhdev v. Bhagatram, Mathew, J., quoted the above referred observations of Mr. Justice Frankfurter with approval. It may be noted that this rule, though supportable also as an emanation from Article 14, does not rest merely on that article. It is a rule of administrative law which has been judicially evolved as a check against exercise of arbitrary power by the executive authority. If we turn to the judgment of Mr. Justice Frankfurter and examine it, we find that he has not sought to draw support for the rule from the quality clause of the United States Constitution, but evolved it purely as a rule of administrative law.-Even in (illegible), the recent trend in administrative law is in that direction as is evident from what is stated at pages 540-41 in prof. Wade's "Administrative Law" 4th edition. There is no reason why we should hesitate to adopt this rule as a part of our continually expanding administrative law. Today with tremendous expansion of welfare and social service functions, increasing control of material and economic recourses and large scale assumption of industrial and commercial activities by the State, the power of the Executive Government to affect the lives of the people is steadily growing. The attainment of socio-economic justice being a conscious end of the State policy, there is a vast and inevitable increase in the frequency with which ordinary citizens come into relationship of direct encounter with State power holders. This renders it necessary to structure and restrict the power of the executive Government so as to prevent its arbitrary application or exercise. Whatever be the concept of the rule of law, whether it be the meaning given but Dicey in his "The Law of the Constitution" or the definition given by Hayek in his "Road to Serfdom" and "Constitution of Liverty" or the exposition set forth by Harry Jones in his "The Rule of Law and the Welfare State, Rule of Law and Natural Justice" in "Democracy, Equality and Freedom" substantial agreement in juristic thought that the great purpose of the rule of law notion is the protection of the individual against arbitrary exercise of power, wherever it is found. It is indeed unthinkable that in a democracy governed by the rule of law the executive Government or any of its officers should possess arbitrary power over the interests of the individual. Every action of the executive Government must be informed with reason and should be free from arbitrariness. That is the very essence of the rule of law and its bare minimal requirement. And to the application of this principle it makes no difference whether the exercise of the power involves affection of some right or denial of some privilege.”*

22. In light of the above, there is thus no gainsaying to observe that as far as the policy instructions issued by the State Government favouring







it's employees are concerned, the administrative authorities are required to abide by the them, unless the same are contrary to the Rule.

23. In *Dr. B.M. Bohra v. State of Rajasthan (Rajasthan High Court)*, it has been held as under :-

*“33. The principles of law enunciated hereinabove show that the every Governmental action including purely administrative acts have to be free from arbitrariness. Wherever, the order is made by a public authority affecting a member of public (he may be a Government employee), it must be made bona-fide, in good faith and in public interest. Fairness in State action is part and parcel of the rule of law, on the edifice of which our Constitution rests. It is no doubt true that the public employer including the Government has a right to suspend its employee at any time in contemplation or during the pendency of inquiry or during investigation or trial of criminal case, in which an employee is involved. But such power of suspension has to be exercised sparingly and after due care. It is necessary that the competent (sic competent) authority must objectively apply its mind to the nature of the allegation made against the employee, its gravity and seriousness, the record of the Government servant and the likely impact on service or the public interest of the alleged act of delinquency of the employee. The power of suspension cannot be exercised as a matter of course. No unfettered discretion is vested with the competent authority to pass order of suspension of an employee according to its sweet will, whim and fancy. The suspension of an employee results in serious adverse consequences to him because his image is shattered in the eye of public and the society in which he moves. Not only he but his whole family has to bear the burnt and the entire family is looked with contempt by the fellow employees and the members of the society. It is, therefore, necessary that this power of suspension must be exercised after thorough consideration of the matter from different angles. **The guidelines contained in the various circulars of the Department of Personnel of the Government of Rajasthan, no doubt, do not have the force of law and it also cannot be said that they must be followed in strict sense, but nonetheless these guidelines cannot be ignored in totality. The guidelines have to be kept in mind and the spirit with which these guidelines have been issued must form part of the consideration, which every competent authority is required to make before passing the order of suspension. As and when the order of suspension is challenged before a court of law and the Government is called upon to justify the order of suspension, it must show from the material on record that there has been application of mind by the competent authority to the relevant factors referred to in the guidelines of the Government. These guidelines cannot be disregarded arbitrarily. They cannot be ignored in totality. The Government, which has issued these guidelines must feel normally bound by the guidelines and if the Court finds that there has been a whole-sale breach of these guidelines that will be a strong circumstance to invalidate the order of suspension, because these guidelines clearly provide for consideration of the factors like involvement of Government servant in the allegation of moral turpitude or the allegation levelled against him involve grave misconduct or failure to carry out the orders of superior authority or where there is a likelihood of major penalty of***



**dismissal or removal being imposed on him.** *It is also necessary that except in exceptional circumstances, a preliminary inquiry is made before the order of suspension is made against a Government servant. The Government servant should ordinarily be given an opportunity to explain his conduct before a decision is taken to suspend him. Of course, this may not be necessary in cases requiring urgent action for preventing injury to the public interest. At times, allegations are made against the Government servants with ulterior motives or extraneous reasons and if he is called upon to submit his explanation, he may satisfy the competent authority that the allegations are baseless, unfounded, malicious or motivated. Then the appropriate authority concerned may not pass an order of suspension against the delinquent Government servant.” (Emphasis supplied)*

24. Administrative circulars / instructions, though, speaking strictly, not legally binding or being law per se for lack of legislative force, but yet they serve as essential instruments in maintaining order and discipline within governance. While they may not bestow upon individuals any indefeasible right for quashing of suspension orders solely on the grounds of non-compliance or procedural violation, at the same time, they are binding in spirit for those entrusted with power, as long they advance the intent and spirit of the applicable Rules. Thus, procedurally, they remain integral to the intent of invocation of Rule 13 by the competent authorities vested with such powers. A suspension order is not automatically rendered invalid or would crumble away, simply because a department head or competent authority has deviated from the administrative directives / guidelines. However, such deviations are not without consequence. Higher authorities retain the right to scrutinize such lapses, demand accountability, and, if warranted, take disciplinary action against those who undermine the system.

24.1. Administrative law is built on hierarchy and discipline, and the erosion of these principles invites/creates chaos. The Government has issued these instructions through the Chief Secretary or the Administrative Secretary of the Department of Personnel or Administrative Reforms, and they carry the full force of competent authority. Disregarding administrative directives is not a trivial lapse. It



is an act of defiance that leads to disorder and administrative mayhem. To flout these directives without justification is more than negligence. It is a dereliction of duty that breeds indiscipline and emboldens defiance among junior officers. Such disregard is not just a challenge to procedure; it is an outright assault on the rule of law. Non-compliance shakes the very foundations of governance, weakens institutional integrity, and undermines the authority of higher functionaries who control and hold the system together. Administrative discipline is not optional. Its compliance is not a courtesy. It is a duty. It is an obligation. It is a necessity to uphold the sanctity of Rule of law and governance.

25. Let us now deal with the contention of learned counsels for the petitioners, that the impugned suspension orders are not legally sustainable as they do not specify any of the contingencies mentioned in clause (a) of Rule 13(1) of CCA Rules, 1958 i.e. either (i) a disciplinary proceeding is contemplated; or (ii) it is pending.

25.1. It is important to note that "Disciplinary Proceedings" differ from a "Disciplinary Inquiry." Disciplinary proceedings begin with the issuance of a show cause notice or a charge sheet. A disciplinary inquiry is initiated only if the response to the notice or charge sheet is unsatisfactory. [It is in the context that policy instructions, *ibid*, have to be read, as at some places they specify that suspension may be imposed in anticipation of a disciplinary inquiry and not proceedings.]

26. It would be seen that the Rule 13 *ibid* can be invoked in either of the two situations i.e. firstly, where a disciplinary proceedings against a Government servant is contemplated or secondly where a disciplinary proceedings against him is pending. The preposition 'or' therein is quite significant and shows that these two contingencies are mutually



exclusive and independent of each other. It follows that a Government servant can be placed under suspension where a disciplinary proceeding against him is contemplated, even if at that time no disciplinary proceeding against him is pending.

26.1. The term 'contemplated disciplinary proceedings' means thinking about, weighing and considering the available options before reaching or taking a particular decision whether or not to embark on the course of disciplinary proceedings. The decision either way- for or against starting disciplinary proceedings- can and has to be taken only by the appointing authority or any other authority to which it is subordinate.

27. As per the Rule 13 *ibid*, in addition to the appointing authority or any other authority to which it is subordinate, any other authority empowered by the Government in that behalf may also place a Government servant under suspension. In the absence of requisite power in that behalf, such authority, before or at the time of placing a Government servant under suspension, cannot take a decision whether or not to start any disciplinary proceedings against him. Obviously, in such cases, the authority though empowered to place a Government servant under suspension, cannot state in the order of suspension that any disciplinary proceedings are contemplated against the Government servant. Insisting upon any such requirement in the order of suspension would thus negate the specific provision in the Rule that any other authority empowered by the Government in that behalf may also, in addition to the appointing authority or any other authority to which it is subordinate, place a Government servant under suspension. No such intention can be gathered either from the language of the Rule as framed or otherwise attributed to the Rule making authority i.e. the



Government. On a harmonious construction of the Rule *ibid*, therefore, it seems that it is not a sine qua non to state in the order of suspension itself, when not passed by Appointing Authority, that any disciplinary proceedings are contemplated against the Government servant.

28. Adverting now to the contention that disciplinary proceedings cannot be treated as contemplated until charge sheet is issued before passing of the suspension order, the first case law cited by the petitioners to fortify their argument is *B.M. Bohra v. State of Rajasthan* (Rajasthan High Court, decided on 18.02.1991) wherein it was observed/held as under:

*“As far as the Government instructions, which have been quoted hereinabove are concerned, from the record which was placed before the Court for perusal, it is clearly borne out that the relevant considerations specified in various instructions were totally ignored while taking decision to place the petitioner under suspension. The non-application of mind on the part of the respondent is also evident from the fact that the suspension has been ordered on the premise of pendency of an inquiry. In the reply the respondent has tried to make up this lapse in the issuance of order of suspension by saying that decision was taken to initiate inquiry or that the suspension has been ordered in contemplation of inquiry of during pendency of inquiry. This only shows lope-side approach of the respondent in dealing with its employee of the rank of Chief Medical & Health Officer. A departmental inquiry cannot be treated as initiated till the charge sheet is issued against an employee.”*

28.1. It would be seen that the judgment quashing the suspension order was based on two grounds. Firstly, the relevant Government instructions quoted therein were totally ignored. Secondly, the non-application of mind by the concerned authority in passing the suspension order was evident on record as the suspension was ordered on the premise of pendency of an inquiry, even though in the reply to the writ petition challenging the suspension order, it was stated that the suspension had been ordered in the contemplation of inquiry (sic-during pendency of inquiry). Elaborating on non-application of mind by the concerned authority in passing the suspension order, the learned





Single Judge observed that a disciplinary inquiry cannot be initiated till charge sheet has been issued and that in that particular case, no charge sheet had been issued to the petitioner on the date of suspension.

29. In *Ram Chandra Tripathy v. State of Rajasthan & Ors.* decided on 12.05.2020, the relevant part of the judgment is as under:

*“The order impugned suspending the petitioner does not refer to any of the contingencies contemplated by the Rule and only on account of petitioner going on alleged unauthorized leave, he has been placed under suspension. The action of the respondents in placing the petitioner under suspension purportedly under Rule 13 of the Rules of 1958 for the reasons indicated in the order dated 23.03.2020 is ex-facie beyond the powers conferred under the Rule as none of the contingencies indicated therein exists.”*

29.1. Consequently, since none of the contingencies indicated in Rule 13 existed it was held that the impugned suspension order could not be sustained.

29.2. To refer or omit to refer in the suspension order the relevant contingency contemplated by the Rule is one thing while the very existence of that contingency altogether different. It would be seen that in the judgment *ibid*, for holding that the impugned suspension order could not be sustained, the learned Single Judge proceeded on the premise that none of the contingencies indicated in the Rule existed.

30. In *Karni Singh Vs. State of Rajasthan & Ors.* decided on 16.03.2022, the petitioner was suspended on 22.11.2019. The suspension order did not speak of any disciplinary proceedings sought to be initiated against the petitioner. The learned Single Judge took note of two previous judgments of this Court wherein it was held that the order of suspension passed in contravention of the Rules of 1958 could not be sustained and had to be quashed. Relying upon them and further observing that the issuance of a charge sheet on a date post the order of suspension could not make the order valid as on the day when it was







issued, it was specifically in contravention of Rule 13 of the Rules of 1958. With respect, I may state here that other than this, there is no discussion or finding specifically recorded in the said judgment to the effect that the impugned order was in contravention of Rule 13 of the Rules of 1958. It appears that the long time elapsed since date of passing of suspension order (22.11.2019) also weighed with the learned single Bench while quashing the same on 16.03.2022.

31. In *Ashok Singh Vs. State of Rajasthan & Ors.* decided on 27.08.2024, the petitioner had been suspended on 21.06.2024 only in terms of a compromise between some villagers and certain Revenue officials. It was found that there was total non-application of mind by the authority who had passed the suspension order, the anticipation of the inquiry was sine-qua non, but the petitioner had not even been issued a charge sheet till 27.08.2024 and further that the order of suspension had been issued by an authority who was incompetent making it unsustainable in the eyes of law. In these facts and circumstances, the learned Single Judge accepted the writ petition quashed and set aside the suspension order.

32. Be that as it may, now consider a case where a Government servant is suspended with the possibility of disciplinary proceedings. Under Rule 13(1), not only the appointing authority but also any other authority below it as designated/delegated by the Government has the power to suspend a servant. However, if an authority lower in rank does not have the power to initiate disciplinary proceedings, then it cannot obviously have the power to decide whether to start them at the time of suspension. Consequently, an authority that is merely empowered to suspend a servant should not and cannot include any statement in the



suspension order indicating that disciplinary proceedings are being contemplated. Requiring such a statement would contradict the Rule's provision that allows /empowers any Government-empowered authority (lower in rank than appointing authority) to suspend a servant, regardless of its power to launch disciplinary actions. Moreover, neither the wording of the Rule 13 nor the legislative intent suggests that the suspension order must disclose the allegations or evidence underlying potential disciplinary proceedings.

32.1 I am thus of the opinion that issuing a show cause notice or charge sheet within reasonable period of suspension is sine qua non for continuation thereof, but its prior issuance is not essential when suspension order is passed by competent authority in contemplation of departmental proceedings. It is pertinent to state here that indubitably, the disciplinary proceedings commence with the issue of a show cause notice or a charge sheet. Only if the reply to the show cause notice or the charge sheet is found not satisfactory, then alone the disciplinary inquiry is or can be initiated. But, all the steps must be taken with certain alacrity as amply clarified in administrative instructions and any failure to implement instructions has to be reasoned out in writing.

33. In the cases in hand, as evident from the table supra, there appears to be flagrant violation of the Rule 13, *ibid*, as despite a sufficiently long lapse of time, neither the disciplinary proceedings have been initiated nor any show cause notice/charge sheet has been issued and where issued, no further progress of any kind in departmental proceedings, what to say of any substantive headway (except in Dinesh Kumar whose suspension period is 7 months). On the other hand, they continue to be suspended. An employee cannot be kept under



inordinately long suspension merely because Disciplinary Proceedings were contemplated, without any further substantive progress in actually initiating the same despite inordinate delay. In Dinesh Kumar's case, he was suspended on 17.07.2024, charge sheet was later issued on 08.08.2024, but disciplinary proceedings have not been concluded so far.

34. As is borne out, there has to be timely initiation and completion of disciplinary proceedings, with a general administrative instruction to dispose of such matters within six months. Prolonged inaction in this behalf by respondents rather shows that the shoe is on the other foot. It reflects serious administrative negligence; undermines the purpose of suspension as a preventive or precautionary measure and rather makes it a punitive one. To reiterate, one cannot be unmindful that though suspension is neither described nor is to be resorted as a punishment under the Rules, but stark reality is that it carries grave and far reaching adverse consequences for the affected employee. Suspension casts a cloud over the employee's reputation and creates a dark social shadow, with lingering doubts over their professional integrity and conduct. The prolonged absence from active duties also diminishes the employee's professional standing and morale.

34.1. Moreover, the delinquent employee is forced to survive only on a subsistence allowance to meet basic needs, leading to financial strain and psychological distress for the individual and their dependents. Entire family thus suffers.

34.2. Furthermore, unwarranted and prolonged suspension not only wastes public funds but also reflects poorly on administrative efficiency. It deprives the department of the services of the employee, particularly if the charges remain unsubstantiated for an extended period. Keeping





an employee under suspension for an indefinite period virtually amounts to a penalty, contravening the principle of natural justice. Any suspension beyond a reasonable period or inordinate period due to administrative delays unless justified by sound and convincing reasons in writing, would ordinarily then be viewed as punitive without there being any punishment order, and thus liable to be quashed. In fact, in this context, reference at this stage may be had to Supreme Court rendition in *Ajay Kumar Choudhary Vs. Union of India* where following sentiments have been echoed to sum up the plight of a suspended official:-

*“9. 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. Article 12 of the Universal Declaration of Human Rights, 1948 assures that - "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". More recently, the European Convention on Human Rights in Article 6(1) promises that "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 "everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law"*

35. Thus, undoubtedly, while it is the discretion of the employer to suspend the employee in contemplation of the disciplinary proceeding, but at the same time, there is a mandate that the contemplated



disciplinary proceeding should not only be initiated but also concluded within a certain reasonable period.

36. Before parting, it is deemed appropriate that following guidelines are framed to be followed by Competent Authorities / Head of Departments of State in those cases where suspension orders are warranted either in contemplation or pending departmental proceedings:-

### **GUIDELINES**

**(a). Purpose of Suspension:** Suspension is not meant as punishment but serves to protect evidence, prevent witness influence, and ensure smooth disciplinary proceedings. It should only be used when absolutely necessary.

**(b). Discretionary Yet Severe:** While suspension is neither described nor prescribed as a punitive measure, it has serious repercussions, affecting an employee's morale, reputation, and financial stability. It also imposes a financial burden on the government.

**(c). Prudent Exercise of Authority:** Authorities must act with utmost caution, considering all relevant facts before suspending an employee. The decision should be justified by the need to protect evidence and witnesses.

**(d). Timely Disciplinary Action:** If an employee is suspended in contemplation of disciplinary proceedings, those proceedings must begin immediately after suspension and be concluded promptly.

**(e). Defined Timelines:** Specific deadlines should be set for each stage of disciplinary proceedings, including as below:

- i. **Initiation** – Issuance of charge sheet or show cause notice.
- ii. **Response** – Submission of the employee's reply.



iii. **Decision** – Review of the reply and determination of further action.

iv. **Inquiry** – If necessary, initiation and conclusion of a departmental inquiry.

v. **Resolution** – Submission and review of the inquiry report, followed by a final decision by Disciplinary Authority.

**(f). Monitoring & Compliance:** A mechanism should be established to ensure adherence to these timelines, with periodic reviews and remedial actions, including penalties for defaulters or revocation of unnecessary suspensions.

37. I may also like to make it clear that the aforesaid guidelines are only in those cases where disciplinary proceedings are either pending or contemplated and exclude all those cases of suspension which are owing to either arrest in a criminal proceedings or pending any criminal investigation and / or criminal trial before a competent Court.

38. Apart from the guidelines, supra, it is deemed appropriate that this Court exercises its writ jurisdiction to issue a writ of mandamus to State of Rajasthan through Secretary Personnel to ensure that all the competent authorities who have been vested with the power to suspend a Government servant to adhere to a reasonable time limit to take further action after suspension order is passed. It is, therefore, directed that where there are no criminal proceedings pending, but a Government servant is suspended in contemplation of departmental proceedings, forthwith steps shall be taken for initiation of disciplinary proceedings by issuance of charge sheet or show-cause notice as the case may be, but the same shall not be later than 30 days with effect from the date of suspension order. In case charge sheet cannot be issued, then one extension of another 30 days shall be permissible





provided reasons in writing be recorded and conveyed to the suspended Government servant.

39. The consequence of non-adherence to the 30 days' time-limit or 60 days, as the case may be, shall necessarily lead to an indefeasible right to seek revocation of the suspension order at the instance of the suspended Government servant upon his approaching the suspending authority or by way of filing an appeal under Rule 22.

40. Just as the mandate of timeline to issue charge sheet is to be followed by the suspending / disciplinary authority, likewise upon a Government servant approaching the appellant authority under Rule 22, it shall be incumbent on the appellant authority to dispose of the appeal eitherway within a period of 30 days of its being received in the office of appellant authority. In case the appeal cannot be disposed of within a period of 30 days, reasons in writing be recorded and conveyed to the suspended Government servant.

41. It is 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.

### **CONCLUSION**

42. To sum up, though at the cost of repetition, suspension during disciplinary proceedings is intended not as punishment but as a necessary measure to preserve critical evidence and prevent any undue influence over witnesses, thereby ensuring a swift and efficient process. Although not a punitive action under the Service Rules, suspension is a



drastic discretionary power that can significantly harm an employee's morale, reputation, and financial stability, while also imposing an unnecessary fiscal burden on the government. Therefore, authorities must exercise the utmost care and objectivity when deciding to suspend, ensuring that disciplinary proceedings commence immediately and are expedited, with the State Government providing clear guidelines to uphold these principles. If an employee is suspended in contemplation of disciplinary proceedings, then the further proceedings against him should be initiated immediately after suspension. Once the disciplinary proceedings commence-contemplated or pending, the same should be proceeded with the necessary urgency and concluded as early as possible. The State Government should issue appropriate instructions to the concerned authorities to bear in mind these parameters, while suspending an employee.

43. I may also hasten to add here that this Court is conscious that the respondents have taken an objection qua the maintainability of the writ petitions on the ground of alternative remedy available under Rule 22 by filing an appeal before the appellant authority.

43.1 However, as would be borne out from the table of the instant cases in para 3.1 of the instant order, the petitioners have already remained under suspension for inordinate times ranging from one and a half year to as long as 6 years and it would thus be travesty of justice to relegate the writ petitions on the ground of alternative remedy of appeal, which, as things stand, does not even appear to be equally efficacious one.

43.2 Invariably, the departmental appeals also remain pending for prolonged periods without the appellant authority being held administratively accountable for causing the delay.





43.3 In the premise, I am of the view that the omission on the part of the petitioners (except Dinesh Kumar) to seek alternate appellant remedy would per se not be fatal to entertain their writ petitions under the discretionary jurisdiction vested with this Court.

**Relief**

44. As an upshot of my discussion and reasoning contained in the preceding part, the impugned suspension orders in four writ petitions i.e. S.B. Civil Writ Petition Nos. 14930/2024, 1788/2024, 4733/2025 & 14416/2022 do not stand to the judicial scrutiny of this Court. Same are therefore quashed with the direction to the respondents to reinstate the petitioners within a period of 30 days from the date of receipt of web-print of the instant order.

45. It is however made clear that the quashing of the suspension shall not preclude the respondents to proceed with the pending or contemplated disciplinary proceedings. They shall be at liberty to initiate or conclude the same, as the case may be, in accordance with law.

46. As regards S.B. Civil Writ Petition No.4267/2025 (*Dinesh Kumar Vs. State*), the same is disposed of with a direction to the suspending / competent authority to take a decision on the revocation in terms of the guidelines, supra. Simultaneously, petitioner shall be at liberty to seek recourse of Rule 22 of CCA Rules 1958 by filing an appeal, if so advised. In case the petitioner files an appeal, same shall be decided within a period of 30 days. Likewise, the competent authority / suspending authority of the petitioner (in Dinesh Kumar's case) shall take a decision within a period of 30 days with effect from the date petitioner approaches the competent authority of the respondents with a web print of the instant order.



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

**(ARUN MONGA),J**

Dhananjay Sharma/-

Item Nos. 162, 224, 33, 257, 433(S).

Whether fit for reporting: Yes / No

**References.**

- i. Enacted and came in force on 11.12.1958, published vide official Gazette on 07.05.1959.
- ii. 2023 SCC OnLine SC 1680- Supreme Court
- iii. 1978 SCC OnLine Del 158-Delhi High Court
- iv. 1974 SCC OnLine AII 240-Allahabad High Court
- v. S.B. Civil Writ Petition No. 10010/2020-Rajasthan High Court, Jodhpur
- vi. 2005 SCC OnLine AII 1712-Allahabad High Court
- vii. AIR 2015 SCC 2389-Supreme Court
- viii. AIR 2016 SC 101-Supreme Court
- ix. 1991 SCC OnLine AII 1712-Rajasthan High Court, Jaipur Bench
- x. SBCWP No. 4125/2020-Rajasthan High Court, Jodhpur
- xi. SBCWP No.10567/2024-Rajasthan High Court, Jodhpur
- xii. SBCWP No.18012/2019-Rajasthan High Court, Jodhpur
- xiii. Notified vide notification dated 20.11.1950.
- xiv. ILR 2000 Kar 2883-Karnataka High Court
- xv. As quoted in Dr. B.M. Bohra v. State of Rajasthan-Rajasthan High Court, Jaipur Bench
- xvi. Note: Before the enactment of CCA Rules, 1958 which came into effect on 11<sup>th</sup> December, 1958, the same was issued under CCA Rules, 1950 which was repealed after promulgation of CCA Rules, 1958.
- xvii. 1979 3 SCC 489- Supreme Court