

Heard Mr. P. Kataki, learned counsel for the petitioner and Mr. M. Phukan, learned standing counsel, Industries and Commerce Department.

2. The petitioner is serving as an Extension Officer (Industry) in the office of the General Manager, District Office of Industries and Commerce Centre, Golaghat. A criminal case was lodged against him by his wife by alleging that she was tortured by him and that he has also contacted second marriage with another woman. The case was registered as All Women PS Case No.923/10 under Sections 498 (A)/494/34 of IPC. As he was under police custody beyond 48 hours, the Commissioner and Secretary of Industries and Commerce, Govt. of Assam, issued the order dated 4.11.2010 placing the petitioner under suspension from the date of his detention in custody. It is stated by the learned counsel for the petitioner that no departmental enquiry is launched against him. It appears that the petitioner has remained under suspension till now. This prompted the petitioner to file a representation before the Commissioner and Secretary of Industries and Commerce, Govt. of Assam to revoke his suspension order without prejudice, however, to the ongoing criminal case pending against him, but the same has not been disposed off till now.

3. The practice and procedure followed in the Central Government, which has now virtually crystallized into law, is that as suspension constitutes a great hardship, in fairness to the Government servant, its period should be reduced to the barest minimum. If suspension is unduly prolonged, it also entails infructuous expenditure to the Government exchequer by way of payment of subsistence allowance, often at enhanced rate, without in any way utilizing his services. The rules of natural justice requires that when a Government service is placed under suspension, charges against him should be framed within a reasonable period of time and a final decision taken expeditiously and terminate suspension. In fact, Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rule, 1965 has been amended providing that an order of suspension shall be reviewed by the competent authority on the recommendation of the Review Committee constituted for this purpose. Further, an order of suspension shall not be valid after 90 days unless it is extended after review before the expiry of 90 days. The Review Committee is to take the view regarding revocation/continuation of the suspension keeping in view the facts and circumstances of the case and also taking into account that unduly long suspension, while putting the employee concerned to undue hardship, also involves payment of subsistence allowance without the employee performing any useful service to the Government.

4. It is further provided therein that without prejudice to the forgoing, if the officer has been placed under suspension for one year without any charge-sheet being filed in a court of law or no charge-memo has been issued in a departmental enquiry, he shall ordinarily be reinstated in service without prejudice to the case against him. However, in case the officer is in Police/judicial custody or is accused of serious crimes or a matter involving national security, the Review Committee may recommend the continuation of the suspension of the official concerned. In my judgment, even if there has been no corresponding amendment in the State Rules, this salutary practice and procedure should also be followed in this State as well. In the instant case, the petitioner is not at all involved in any serious crime; the charges made against him pertain to matrimonial dispute, which sometimes ended up in compromise between the spouses. Therefore, in my opinion, the time has come for the respondent authorities to review the suspension of the petitioner by taking into account the forgoing practice and procedure.

5. Resultantly, this writ petition is disposed of by directing the petition

er to file a fresh representation for review of his suspension before the Respondent No.1 within a period of 1(one) week from today and on receipt of the representation, the Respondent No.1 shall review the suspension of the petitioner in accordance with law within a period of 15(fifteen) days thereafter.