

**(2019) 02 CHH CK 0464**

**Chhattisgarh High Court**

**Case No:** Writ Petition (S) No. 3266 Of 2018

Chandrakant Manik

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

**Date of Decision:** Feb. 25, 2019

**Acts Referred:**

- Prevention Of Corruption Act, 1988 - Section 13(1)(e), 13(2)

**Hon'ble Judges:** P. Sam Koshy, J

**Bench:** Single Bench

**Advocate:** Varun Sharma, Sameer Behar, LC Das

**Final Decision:** Disposed Of

**Judgement**

P. Sam Koshy, J

1. The whole dispute in the present case revolves around issue of non granting of subsistence allowance to the petitioner.

2. Indisputably, the petitioner has been placed under suspension vide order dated 11.09.2017 w.e.f. 04.09.2017. The reason for placing the petitioner under suspension is his being prosecuted in a criminal case for the offence punishable under Sections 13(1)(e) and 13(2) of the Prevention of Corruption Act, 1988.

3. According to the petitioner, he had immediately applied for grant of anticipatory bail and he has also an order in his favour. He further submits that right from the time of his being placed under suspension, he has not been paid subsistence allowance.

4. The counsel for the respondent No.2 at this juncture submits that since the petitioner has not reported for duty and also the fact that he has not

submitted certificate to show that he is not gainfully employed elsewhere, the subsistence allowance has not been released to him.

5. The counsel appearing for respondent No.1-State submits that the subsistence allowance has to be paid by the respondent No.2 and not by the respondent No.1.

6. Given the aforesaid factual matrix of the case and which has not been disputed by any of the counsel appearing for the respective parties, what is undisputed is the fact that the petitioner stands suspended vide order dated 11.09.2017 w.e.f. 04.09.2017. It is settled position of law that when an employee is placed under suspension, he is entitled for subsistence allowance that is provided under the service rules. Under no circumstances till the final order of punishment has been passed, can the subsistence allowance payable to an employee be stopped moreover without any specific order being issued in this regard. In the instant case no specific order has been passed dis-entitling the petitioner for subsistence allowance. The petitioner seems to have been placed under suspension on account of his being prosecuted in a criminal case. That criminal case is still pending consideration.

Therefore, as long as criminal case is pending and the respondents have not initiated any disciplinary action against the petitioner, there does not seem to be any reason why the petitioner should not be entitled for subsistence allowance.

7. A far as reporting for duty is concerned, the document which the petitioner has enclosed reveal that he has made repeated approach to the respondent authorities for release of the same which shows that the petitioner has been approaching the authorities for release of the subsistence allowance time and again.

8. Given the aforesaid undisputed factual matrix of the case, this court is of the opinion that no fruitful purpose would be served in keeping this petition pending, rather ends of justice would meet if the respondent No.2 is directed to forthwith release subsistence allowance payable to the petitioner from the date the suspension order has been issued. The petitioner is also directed to ensure that he approaches the respondent No.2 and, if required, complete all formalities required for the release of the same.

9. With the aforesaid observations, the writ petition stands disposed of.

It is expected that the respondent No.2 shall complete the process and finalize payment of subsistence allowance to the petitioner within a period of 60 days from the date of receipt of certified copy of this order.