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**(2018) 09 CHH CK 0062**

**Chhattisgarh High Court**

**Case No:** Writ Petition (S) No. 5589 Of 2018

Mukesh Mishra

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

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**Date of Decision:** Sept. 5, 2018

**Acts Referred:**

- Civil Services (Classification, Control & Appeal) Rules, 1966 - Rule 9

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

**Bench:** Single Bench

**Advocate:** Abhishek Pandey, RN Pusty

**Final Decision:** Allowed/Disposed Of

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**Judgement**

P. Sam Koshy, J

1. The challenge in the present petition was to the order dated 25.06.2018 (Annexure P/1) whereby the services of the petitioner was placed under suspension.

2. The petitioner has filed this petition on the ground that the period within which the charge sheet ought to have been filed after the petitioner is placed under suspension under the service rules have already been lapsed and therefore the suspension of the petitioner ought to have been automatically revoked by the respondents.

3. This court on the previous day directed the State counsel to seek instructions in the matter.

4. Today, the counsel for the State submits that they have received instructions to the extent that since the primary investigation is still undergoing, the

petitioner could not be issued with charge sheet. This by itself implies that the period within which the charge sheet ought to have been issued under the service rules has already lapsed.

5. It is relevant at this juncture to refer to the order of this court in WPS No.4318 of 2017 decided on 12.09.2017, the relevant part of which is reproduced herein as under :

1. Learned counsel for the State fairly submits that charge sheet could not be given to the petitioner within 45 days from the date of suspension.

2. In view of provision contained in Rule 9 of the Civil Services (Classification, Control & Appeal) Rules, 1966, in case charge sheet is not issued within 45 days, order of suspension comes to an automatic end and stands revoked.

3. Therefore, in these circumstance, though I am not inclined to hold that suspension order was bad on its inception, it would not continue after expiry of 45 days w.e.f. 13.6.2017. The petitioner shall be treated as having been reinstated immediately after expiry of 45 days from the date of suspension and shall be allowed to join in the office and paid salary.

6. Given the aforesaid facts and circumstances of the case, it is ordered that the suspension of the petitioner on account of charge sheet having not been filed within a period of 60 days from the date of suspension, would stand revoked and the petitioner would be entitled for joining his duties. It is directed that the respondents shall take necessary steps in this regard.

7. Needless to mention that merely because the suspension order is revoked would not preclude the State from proceeding with the Departmental Enquiry against the petitioner.

8. The writ petition accordingly stands allowed and disposed of.