



**AJAY KUMAR CHOUDHARY V.
UNION OF INDIA**

By *Milendra Jain*
From *Indore Institute of Law*

INTRODUCTION –

The case *Ajay Kumar Choudhary v Union of India* deals in the service law jurisprudence, based on the principle of human dignity and the right to speedy trial. This case mainly deals with the Section 167(2) of the Cr.P.C. as to reviewing suspension order in case of departmental and disciplinary inquiries and the right to speedy trial which is enshrined in the extended concept of Ar. 21 of the Indian constitution, which encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision, and re-trial as in this case there was continuous suspension, thus violation of the right to speedy trial. As in this case, the petition has been filed to seek redresses and to acquire the post again in the reasonable time period as there has been an infringement of the appellant right to speedy trial as the appellant suspension was in continuous and without reasonable time fixed for inquiry. The appellant was not served with the charge sheet by the respondent. Due to which the appellant filed the petition in the Supreme Court of India which was dually accepted for safeguarding the rights, therefore the government has directed the respondent to serve the charge sheet for the suspension and this protected the right to the speedy trial of the petitioner. The appellant has been served with the charge sheet and the petition was disposed of.

FACTS OF THE CASE –

The case is in between the suspended government officer and the union of India. The appellant was posted as the Defence Estate Officer Kashmir Circle. There was a large portion of the land which was owned by the Union of India. Approximately 4 acres of land does not cover the defense land but they were private land and for those NOCs were issued by the appellant but these were the government property. Afterward, appellant admits the mistake and denied any mala fide in issuing the NOCs, therefore the appellant was suspended, various litigations were filed which were fruitlessly initiated by appellant and the first one which was initiated was in Central Administration Tribunal. There were 4 frequent suspensions of 180, 180, 90, 90 days respectively. The CAT (Central Authority Tribunal) ordered that the inquiry is concluded in the time bound manner. The respondent i.e. Union Of India, against this judgment filled the writ petition in Delhi High Court asserting that the power exercised power not possessed by CAT. The writ petition was allowed in the High Court and the Central Government directed to pass appropriate orders. Against this direction of the High Court, the appellant filed the appeal in the Supreme Court. The Supreme Court directed that the government has to serve the charge sheet on the appellant before the expiry of the fourth extension of suspension to ensure the appellant human dignity and right to speedy trial.

ISSUES-

- Whether the Right to Speedy Trail is violated?
- Whether the government has the power to continue the suspension of the government officer till unspecified time period?



- Whether the Government has to issue the charge sheet within the time bound manner?
- Whether the writ filed is maintainable?

JUDGMENT-

Initially, the petition was filed by the Appellant in the Central Administrative Tribunal (CAT) Chandigarh Bench. During the pendency of the proceedings, the second extension was ordered for another of the 180 days. For this, the Central Administrative Tribunal gave order that no employee can be indefinitely suspended and that the disciplinary proceedings have to be finished within the reasonable time period. Further, the Central Administrative Tribunal ordered that if no charge sheet issued till the expiry of the fourth suspension, then the prevailing period the appellant would be appointed in the service. The Central Administrative Tribunal ordered that if it has to be decided to conduct the inquiry it had to be concluded in the time bound. Against this the UOI filed a writ petition in High Court, the court ordered that the government was allowed to pass the appropriate order regarding the suspension or regarding the relevant factors associated with this case. This has led the appellant to file the writ before the supreme court of India for seeking relief for taking the post and the right to speedy trial. The Supreme Court ordered that the suspension order should not go beyond the three months i.e. 90 days, within this period the Memorandum of Charge sheet should be served to the suspended officer if the charge sheet not provided in this duration then the suspended officer should be reposted. The court further ordered if the charge sheet stated the reason, then if the government

wants to increase the suspension then the government has to pass the order of the suspension. The government is free to transfer the concerned person to any of its department in its offices. The government may also restrict him from contacting any person or handling records and documents. The court ordered to serve the charge sheet before the expiry of the fourth suspension, the government provided the charge sheet to the appellant in the time period.

After this, the Supreme Court of India disposed of the appeal filed by the petitioner. Thus the court safeguarded the interests of the appellant as various aspects were explored as the right to the speedy trial and the suspension for 90 days i.e. three months.
