



CGHC010253782022



2026:CGHC:27781

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5513 of 2022

1 - P.K. Agrawal S/o Late H.L. Agrawal Aged About 67 Years Erstwhile Sub Divisional Officer And Retired Executive Engineer (R), R/o C/45, Aishwarya Kingdom, Kachna, Raipur, District : Raipur, Chhattisgarh

... **Petitioner****versus**

1 - State Of Chhattisgarh Through The Principal Secretary, Water Resource Department, Mahanadi Bhawan, New Mantralaya, New Raipur, District : Raipur, Chhattisgarh

2 - The Chief Engineer Water Resource Department, Government Of Chhattisgarh Raipur, District : Raipur, Chhattisgarh

3 - The Under Secretary Water Resource Department, Mahanadi Bhawan, New Mantralaya, New Raipur, District : Raipur, Chhattisgarh

-- Respondent(s)

For Petitioner	:	Ms. Subhi Yadav, Advocate holding the brief of Mr. Hemant Kumar Agrawal, Advocate
For State	:	Ms. Soumya Sharma, Panel Lawyer

Hon'ble Shri Justice Rakesh Mohan Pandey

Judgment On Board

06.07.2026

1) By way of this petition, the petitioner has sought following reliefs:-

“10.1 This Hon'ble Court may kindly be pleased to issue appropriate writ and quash the impugned

order dated 21.12.2021 (Annexure P/1), in the interest of justice.

10.2 This Hon'ble Court may further be pleased to pass an appropriate order or issue writ as deemed fit under the facts and circumstances of the case."

- 2) The facts in brief are that at the relevant time, the petitioner, who was working as Sub-Divisional Officer under the Water Resources Department, Sub-Division No.5, Durg was served with a show-cause notice in the month of August, 2016. The allegation against the petitioner was that as per audit report, between 2011 to 2012, he committed irregularity in construction of canal. A departmental inquiry was also contemplated according to the provisions of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short 'the Rules of 1966'). The petitioner filed reply and denied the allegations made in show-cause notice and thereafter, respondent No.3 vide order dated 21.12.2021 inflicted penalty of 5% deduction in pension for a period of one year.
- 3) Learned counsel appearing for the petitioner would argue that specific ground has been taken in the writ petition that according to the Rule 16 of the Rules of 1966, no inquiry was conducted even no opinion was formed by the Disciplinary Authority to conduct a departmental inquiry, therefore, the order passed by respondent No.1 dated 21.12.2021 is bad in law. She has placed reliance on the judgment passed by the Hon'ble Supreme Court in the matter of **M/s. Siemens Limited Vs. State of Maharashtra**, reported in **2006 Lawsuit (SC) 1110** and the matter of **O.K. Bhardwaj Vs. Union of India**, reported in **1996 Lawsuit (SC) 1567**. It is also contended that the petitioner in reply had denied the allegations, therefore, the Disciplinary Authorities should

have conducted an inquiry strictly in accordance with law. She would pray to set aside the impugned order dated 21.12.2021 passed by respondent No.3.

- 4) On the other hand, learned Panel Lawyer appearing for the State/respondents would oppose the submissions. She would submit that the petitioner while posted as Sub-Divisional Officer under the Water Resources Department between 2011 to 2012 committed irregularity and therefore, a show-cause notice was issued which was duly replied and thereafter, the Disciplinary Authority inflicted penalty. She would contend that the petitioner was afforded sufficient opportunity of hearing and thus, the petition is misconceived and deserves to be dismissed.
- 5) I have heard the learned counsel appearing for the parties and perused the documents placed on record.
- 6) Rule 16 of the Rules of 1966 deals with the 'procedure for imposing minor penalties and same reads as under :

“16.Procedure for imposing minor penalties-

(1) Subject to the provisions of sub-rule (3) of Rule 15, no order imposing on a Government servant any of the penalties specified in clauses (i) to (iv) of Rule 10 and Rule 11 shall be made except after-

(a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 14, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the Government servant under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour; and

(e) consulting the commission where such consultation is necessary

[(1-a) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any, made by the Government Servant under clause (a) of that sub-rule to withhold increments of pay or Stagnation Allowance and such withholding or increments of pay or Stagnation Allowance is likely to effect adversely the amount of pension payable to the Government Servant or to withhold increments of pay or Stagnation allowance for a period exceeding three years or to withhold increments of pay or Stagnation allowance with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (23) of Rule 14, before making any order imposing on the Government servant any such penalty.]

(2) The record of the proceedings in such cases shall include-

(i) a copy of the intimation to the Government servant of the proposal to take action against him;

(ii) a copy of the statement of imputation of misconduct or misbehaviour delivered to him;

(iii) his representation, if any;

(iv) the evidence produced during the inquiry;

(v) the advice of the commission, if /any;

(vi) the findings on each imputation of misconduct or misbehaviour; and

(vii) the orders on the case together with the reasons therefor.”

A bare reading of above-quoted provision would make it clear that the authority concerned is required to conduct an inquiry according to the provisions of Sub-rule 3 to 23 of the Rule 14 of the Rules of 1966, while imposing minor penalty.

7) In the matter of **M/s. Siemens Limited (supra)**, the Hon'ble Supreme Court has held that when a notice is issued with pre-meditation, a writ petition would be maintainable. Relevant para 10 is reproduced herein below :

“10. Although ordinarily a writ court may not exercise its discretionary jurisdiction in entertaining a writ petition questioning a notice to show cause unless the same inter alia appears to have been without jurisdiction as has been held by this Court in some decisions including *State of Uttar Pradesh v. Brahm Datt Sharma and Anr.* AIR 1987 SC 943, *Special Director and Another v. Mohd. Ghulam Ghouse and Another*, (2004) 3 SCC 440 and *Union of India and Another v. Kunisetty Satyanarayana*, 2006 (12) SCALE 262], but the question herein has to be considered from a different angle, viz, when a notice is

issued with pre-meditation, a writ petition would be maintainable. In such an event, even if the courts directs the statutory authority to hear the matter afresh, ordinarily such hearing would not yield any fruitful purpose [See K.I. Shephard and Others v. Union of India and Others (1987) 4 SCC 431 : AIR 1988 SC 686]. It is evident in the instant case that the respondent has clearly made up its mind. It explicitly said so both in the counter affidavit as also in its purported show cause.”

- 8) In the matter of **O.K. Bhardwaj (supra)**, the Hon’ble Supreme Court has held that if the charges are levelled against a Government servant and charges are factual and if they are denied by the delinquent employee, an inquiry should also be called for. Further, in the present case, respondent No.2 failed to comply with the provision of Rule 16 of the Rules of 1966 as no inquiry according to the provisions of Rule 14 of the Rules of 1966 was conducted. Relevant para 3 is reproduced herein below :

“3. While we agree with the first proposition of the High Court having regard to the rule position which expressly says that withholding increments of pay with or without cumulative effect is a minor penalty, we find it not possible to agree with the second proposition Even in the case of a minor penalty an opportunity has to be given to the delinquent employee to have his say or to file his explanation with respect to the charges against him. Moreover, if the charges are factual and if they are denied by the delinquent employee, an enquiry should also be called for. This is the minimum requirement of the principle of natural justice and the said requirement cannot be dispensed with.”

- 9) Taking into consideration the fact that the Disciplinary Authority has inflicted penalty of 5% deduction in pension for a period of one year, which is a minor penalty and no departmental inquiry was conducted in consonance with the provisions of Rule 16 of the Rules of 1966, therefore, in my opinion, order passed by respondent No.3 dated 21.12.2021 is not sustainable in the eyes of law.
- 10) Taking into consideration the above-discussed facts and law laid down

by the Hon'ble Supreme Court in the above-referred matters, order dated 21.12.2021 passed by respondent No.3 is hereby quashed. Respondent No.3 would be at liberty to conduct a fresh inquiry strictly in accordance with the Rules 14 & 16 of the Rules of 1966, if so advised.

- 11)** With the aforesaid observation(s) and direction(s), this petition is **disposed of.**

sd/-

(Rakesh Mohan Pandey)
JUDGE