



SINGLE PETITION

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IN THE HIGH COURT OF CHHATTISGARH
AT BILASPUR

WRIT PETITION (S) No. 767 Of 2008

PETITIONER

P.N.Nayak

S/o Late Shri K.P.Nayak, aged about 50 years Assistant Grade II, Mining Department, office of the Collector, District Kanker, Resident of Quarter no.12, Adarsh Nagar, Kanker (CG).

P.R. No. 7/3/08
Prasanth Anthony
31/1/08

VERSUS

RESPONDENTS

1. The State of Chhattisgarh, through the Secretary, Mining Department, Mantralay, D.K.S. Bhawan, Raipur (CG).

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2. Director, Geological and Mining, Sonakhan Bhawan, Chhattisgarh, Raipur (CG).

3. Collector, District Kanker (CG).

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

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HIGH COURT OF CHHATTISGARH AT BILASPUR

(Hon. Mr. Justice Pritinker Diwaker)

Writ Petition (S) No. 707 of 2008

PETITIONER

P.N. Nayak

VERSUS

RESPONDENTS

State of Chhattisgarh and others

Shri Rakesh Anthony counsel for the petitioner.

Shri Yashwant Singh Thakur Dy. AG for the respondents/State.

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

ORDER
(02.02.2015)

Substantive post of the petitioner is Assistant Grade – II who is an employee of department of mining. On 28.2.2001 vide Annexure P-1 passed by the Collector the petitioner was placed under suspension and then after issuing charge-sheet and conducting regular departmental enquiry he was punished by stoppage of two increments with cumulative effect. Order of the Collector was assailed by the petitioner by way of appeal before the Commissioner vide Annexure P-11. As at the relevant time the post of the Commissioner (Revenue) Bastar Division was abolished, the appeal of the petitioner stood transferred to respondent No.2 i.e. Director (Geological and Mining) and ultimately the same has been decided on 29.11.2007 vide

Annexure P-15. While deciding the appeal, the Director affirmed the order passed by the Collector and it is this order which is under challenge in this petition.

2. Counsel for the petitioner submits that he has a very limited submission to the effect that while deciding the appeal the Director has not given an opportunity of hearing to the petitioner and the appeal has been decided behind his back in a mechanical manner and without application of mind simply mentioning in the last paragraph of the order that punishment imposed by the Collector is in accordance with law and therefore, let the matter be remanded to the Director for deciding the appeal of the petitioner afresh by a reasoned and speaking order after giving an opportunity of personal hearing to the petitioner.

3. Counsel for the respondents has no objection to this proposition made by the counsel for the petitioner. He however submits that the petitioner may also be directed to co-operate with the Director and to appear personally before him whenever asked for.

4. Considering the facts and circumstances of the case order impugned (Annexure P-15) is hereby set aside and the case is remitted to respondent No.2 i.e. Director (Geological and Mining) for deciding the appeal afresh by a speaking and reasoned order after giving an opportunity of hearing to the petitioner.

5. Apart from submitting the copy of the appeal already filed before respondent No.2, the petitioner would also have liberty to make additional submissions before it and then it is expected from respondent No.2 to pass an appropriate order in accordance with law. Let this be done as expeditiously as possible preferably within a period of four months from the date of submission of copy of this order along with additional submissions.

6. This Court has not made any observation on the merits of the case and the respondent No.2 would be free to decide the matter on its own merits.

7. With the aforesaid observations, the petition is allowed.

Sd/-
Pritinker Diwaker
Judge

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