

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeals No. 388 of 2015**

Satish Chandra Shrivastava S/o Shri R. L. Shrivastava Aged About 46 Years The Then Assistant Grade- I I I, At Durg District Court Durg, R/o Mig- 2/ 434, Amdee Nagar, hudco, Bhilai Nagar, District- Durg- (Chhattisgarh)

---- **Petitioner**

Versus

1. Registrar General High Court Of Chhattisgarh, Bilaspur- (Chhattisgarh)
2. District And Session Judge, Durg- (Chhattisgarh)
3. Investigation Officer, Ivth Additional Session Judge, Durg- (Chhattisgarh)

---- **Respondents**

And

Writ Appeal No. 389 Of 2015

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---- **Petitioner**

Vs

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2. District And Session Judge, Durg, (Chhattisgarh)
3. Investigation Officer, Ivth Additional Session Judge, Durg (Chhattisgarh)

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---- **Respondents**

For Appellants:	Shri KPS Gandhi, Advocate.
For Respondents:	None.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board

Per Navin Sinha, Chief Justice

19/08/2015

1. The present appeals arise out of a common order dated 15.1.2015 filed by the same Appellant. Different charge sheets were issued, separate inquiries held, leading to order of punishment and dismissal affirmed in departmental appeals, because of which separate Writ Petitions were filed giving rise to this batch of appeals.
2. The facts of the case disclose that against the order of dismissal dated 10.11.2000 based on one of the charges for unauthorized absence and consequent dismissal of the appeal, the Appellant filed Writ Petition (S) No.203/2008. It was unconditionally withdrawn on 22.4.2008 without any liberty. The Learned Single Judge has therefore rightly held that the subsequent Writ Petition (S) No.2530/2008 for the same cause of action was not maintainable. Consequently, Writ Appeal No.392/2015 arising out of Writ Petition (S) No.2530/2008 is held to be not maintainable.
3. The Appellant filed four other Writ Petitions challenging his order of dismissal as affirmed in appeal. It was submitted on behalf of the Appellant that he did not want to contest the Writ Petition on merits at this stage and

would be satisfied if the Appellate Authority was directed to pass a speaking order. The Writ Petitions were thus disposed. In Writ Appeal No.388/2009 and analogous appeals preferred against the same by the Respondents disposed on 5.8.2010, the Division Bench held that if the Appellate Authority agreed with the findings given by the disciplinary authority, it was not necessary for it to give detailed reasons. The Appellate Authority had in fact passed a detailed order, the effect of which was communicated to the Appellant on 22.3.2006. The Division Bench accordingly held that the ground on which the Writ Petition was allowed and directions given to the Appellate Authority to decide the appeal afresh were not sustainable. At this stage, the Appellant somersaulted and now took the stand that he wanted to press the Writ Petitions on merits. In these circumstances, the matter was remanded to the Learned Single Judge for decision on merits leading to the present order under appeal.

4. A litigant coming to Court cannot be permitted to allow his case to meander in a manner that he deems fit. If the Appellate order was non speaking in nature, nothing prevented the Appellant from assailing the order of dismissal both on merits as also the Appellate order. The Appellant could not blow hot and cold by accepting in appeal that the Appellate order was reasoned, seeking to revert back to the challenge on merits which he had given up. A proceeding in a Court of law is not a game of chess to move the pawns at convenience. Procedures for challenging and assailing orders stand established. If a litigant despite having a right and opportunity to challenge an order gives it up confining the challenge on other issues, if subsequently he finds the other issues getting inconvenient, he cannot be permitted to revert to the former.

5. Be that as it may, the Learned Single Judge has adequately noticed that there was no procedural infirmity in the conduct of the departmental proceeding. The Appellant never filed his reply to the charges. He participated in the departmental proceedings and then stopped appearing voluntarily. It cannot be said in the circumstances that he was unaware of the departmental proceedings and that it was conducted behind his back. A person with full awareness of a matter pending against him, participates and then abandons it mid way, he does so at his own risk and it was not open for him to urge violation of principles of natural justice to take advantage of his own lapses.

6. The accusations against the Appellant were serious with regard to preparation of false order sheets, wrongly discharging the accused for which he had no authority, issuance of money receipts from his personally maintained receipt book, failure to deposit goods handed over to him in the Malkhana, he destroyed and fabricated order sheets by over writing and also misused the seal of the Court.

7. The interpretation of the Learned Single Judge in the facts of the case of sub rule 11 of Rule 14 of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 calls for no interference. If the contention of the Appellant in that regard be accepted, it shall again be giving him an advantage of his own lapse in not having filed his written statement, and defence, abandoned the departmental proceedings after having entered appearance.

8. The Learned Single Judge concluded as follows:-

“.....The edifice of the judiciary is based on trust and confidence of the people in administration of justice as well as in other connected works. If all the officers/employees connected with administration of

justice, do not possess highest degree of integrity and honesty in all their works, the faith of the people may be collapsed. The conduct of the petitioner should have been such, which upholds the dignity of the judicial system but in the instant case it was just opposite to it. While evaluating the degree of punishment it appears that the petitioner used his position while working in the judicial department and parallel judicial system was evolved of his own wherein he tampered with the records and passed the orders for which he was not authorized. It also cannot be brushed aside that it was coupled with financial implication.

9. The present appeals were fit to be dismissed with costs. However, we refrain from imposing costs.

10. Writ Appeal No.392/2015 is dismissed holding Writ Petition (S) No.2530/2008 to be not maintainable. The rest of the appeals are also dismissed on merits.

Sd/-
(Navin Shiha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE