

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4973 of 2014

- Dr. Hitendra Kumar Soni S/o Shri Dinbandhu Soni, Aged About 32 years, Occupation Suspended Veterinary Assistant Surgeon, R/O A/10, Ambika Niwas Arya Residency, Janjgir (Chhattisgarh)

---- Petitioner

Versus

1. The State Of Chhattisgarh Through The Chief Secretary, New Mantralaya, New Raipur (C.G.)
2. The Secretary Livestock Development Department (Pashudhan Vikas Vibhag) Secretariate, Mahanadi Bhawan, Raipur (C.G.)
3. The Director, Veterinary Services (Pashuchikitsa Sevayen), Ground Floor, Indravati Block, New Raipur (C.G.)

---- Respondents

For Petitioner	:	Shri Sunil Kumar Soni, Advocate
For Respondent/State	:	Shri Y.S. Thakur, Dy. Advocate General with Shri Mazid Ali, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

28/04/2015

1. Petitioner is a suspended Veterinary Assistant Surgeon. Vide order dated 17/04/2014 he has been suspended in exercise of powers under Rule 9 (1)(b) of the Chhattisgarh Civil Services (Classification, Control & Appeal) Rules, 1966 on the ground that charge-sheet has been filed against him alleging commission of offence.
2. Petitioner preferred an appeal against this order on the ground that during period of suspension his headquarter has been fixed at the office of Deputy Director, Veterinary Services Bilaspur, whereas no such office exists, therefore, the order has been passed without application of mind. During pendency of his appeal

before the appellate authority, the second order Annexure P/3 has been issued on 23/06/2014 to amend the earlier transfer to change his headquarter during the period of suspension, in the office of Joint Director, Veterinary Services, Bilaspur, in place of office of Deputy Director, Veterinary Services, Bilaspur. Petitioner's place of working is also wrongly mentioned in the suspension order as well as in the amended order because the petitioner is not posted at Raigarh. On the date of issuance of the orders the petitioner was working as Veterinary Assistant Surgeon, Janjgir where he is posted since 31/07/2012.

3. The reason for petitioner's suspension is filing of charge-sheet against him and not on account of any misconduct committed by him either at Janjgir or Raigarh. An allegation of non-application of mind or perversity would gain importance when the same has relevance to the basis for suspension. When the petitioner has not been suspended for any of his acts or omission while performing duties at Raigarh or Janjgir, but the same has occasioned due to filing of charge-sheet in a criminal case, mere wrong mentioning of his place of posting or the place of headquarter during the period of suspension would not render the order as without application of mind.

4. Petitioner has also argued that once having passed the order of suspension, the State Government has become *functus officio* to amend the order and more so when appeal preferred by him was pending.

5. This Court is least impressed with the argument because the exercise of power to suspend an employee is more in the nature of exercise of power for which authority is empowered under the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966. It is settled law that suspension is not a punishment, therefore, if the order of suspension does not amount to stigma and when the order of suspension is issued on account of filing of charge-sheet in a criminal case, mere wrong mentioning of place of posting does not amount

to review of the earlier order so as to conclude that the authority has become *functus officio*.

6. In the matter of ***U.P. Rajya Krishi Utpadan Mandi Parishad and Others Vs. Sanjiv Rajan, 1993 Supp. (3) SCC 483*** it has been held by the Supreme Court that there is no restriction on the competent authority to pass a second suspension order. Thus, if the authority has jurisdiction to pass second suspension order, it always has the authority to amend the first suspension order to correct either the place of posting or the place of headquarter where the person would remain posted during the period of suspension.

7. There is no substance in this writ petition, which fails and is hereby dismissed.

JUDGE