

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3372 of 2015**

- Pradeep Kumar Banerjee S/o S. K. Banerjee, Aged About 54 Years Executive Engineer In The O/o Chief Engineer, P W D, Bilaspur Zone, Bilaspur, (Chhattisgarh)

---- Petitioner**Versus**

1. The State of Chhattisgarh Through: The Principal Secretary, Public Works Department, Mantralaya, New Raipur, (Chhattisgarh)
2. The Engineer- In- Chief, Public Works Department, Sirpur Bhawan, Near Akashwani, Raipur, (Chhattisgarh)
3. The Chief Engineer, Public Works Department, Bilaspur Zone, Opp. District Court, Bilaspur, (Chhattisgarh)
4. The Superintending Engineer, Public Works Department, Bilaspur Circle, Opp. District Court, Bilaspur, (Chhattisgarh)
5. The Executive Engineer, Public Works Department (Building/ Road) Division 2, Mungeli, District Mungeli, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Sunil Kumar Soni, Advocate
For Respondents-State	:	Shri YS Thakur, Dy. AG for the State

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

17/09/2015

1. Petitioner is a suspended and thereafter reinstated Executive Engineer in the department of Public Works. He has preferred this writ petition for a direction to the respondents to delete the miscellaneous PW Advances showing in his name pursuant to the entry made in the accounts by respondent No.5.

2. Petitioner was placed under suspension on 21-1-2011, however, presently he has been reinstated. Government of Chhattisgarh, department of Public Works issued a charge-sheet against the petitioner on 31.03.2011 (Annexure P-5) imputing two charges against him. In the first charge it was alleged that in the year 2010-11 a sum of Rs.556.00 Lakhs were allotted for annual maintenance work, however, the petitioner carried on annual repairs to the tune of Rs.829.62 Lakhs. Thus by incurring excess unauthorized expenditure, he violated the works department manual, which attracts violation of Rule 3 of the Chhattisgarh Civil Services (Conduct) Rules, 1965. In Charge No.2, it was alleged that during his above said tenure, he sanctioned several tenders on much higher rates than the approved rate. By making excess payment to the contractors to the tune of Rs.329.85 Lakhs he caused loss to the State Government.
3. It is argued that the transfer entries have been made by the successor Executive Engineer in contravention of CPW account code, which is applicable also to the State PWD. It is also submitted that pursuant to his representation dated 28-7-2012, the then Superintendent Engineer, PWD, Bilaspur Circle, recommended for deletion of the miscellaneous PW entries, however, such deletion has not been made.
4. Perusal of papers annexed with the writ petition would indicate that the petitioner is raising a prayer which overlaps or is intricately connected with the charges for which the petitioner is undergoing Departmental Enquiry. This Court, sitting under Article 226 of the Constitution of India, shall not interfere in the interim stage on a subject which would affect the result of the Departmental Enquiry.
5. In the considered opinion of this Court, the petitioner has adopted circuitous route to affect the Departmental Enquiry without, in fact, challenging the enquiry proceedings. Such recourse is not only legally impermissible, but it

should be discouraged and deprecated.

6. For the foregoing, this Court does not find any substance in this writ petition, it is accordingly dismissed with cost of Rs.25,000/- payable to the High Court Legal Aid Committee within a period of one month. If the cost is not paid within the stipulated period, the drawing disbursing authority of the petitioner may recover the same from petitioner's salary in five equal monthly installments. After deduction of the amount from his salary, the drawing disbursing officer shall make it over to the High Court Legal Aid Committee.

Sd/-

Judge

Prashant Kumar Mishra

Ashu