

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3579 of 2015

- Ku. Ganga Kaushik D/o Late Dwarika Prasad Kaushik, Aged About 54 Years R/o Village & Police Station Bakimongra, Block & Tahsil Katghora, Civil & Revenue District Korba, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Health & Family Welfare Department, Mahanadi Bhawan, Police Station New Raipur, Tahsil Raipur, Civil & Revenue District Raipur, (Chhattisgarh)
2. Director, Directorate Of Health Services, Indrawati Bhawan, New Raipur, Police Station New Raipur, Tahsil Raipur, Civil & Revenue District Raipur, (Chhattisgarh)
3. The Collector, Korba, Civil & Revenue District Korba, (Chhattisgarh)
4. Block Medical Officer, Community Health Centre, Katghora, Civil & Revenue District Korba, (Chhattisgarh)
5. Chief Medical & Health Officer, Korba, Civil & Revenue District Korba, (Chhattisgarh)

---- Respondent

And

WPS No. 3581 Of 2015

- Amarnath Dixena S/o. Late Ramji Dixena, Aged About 56 Years R/o. Village & Police Station Bakimongra, Block & Tahsil Katghora, Civil & Revenue District Korba (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary, Health & Family Welfare Department, Mahanadi Bhawan, Police Station New Raipur, Tahsil Raipur, civil & Revenue District Raipur (Chhattisgarh)
2. Director, Directorate Of Health Services, Indrawati Bhawan, New Raipur, Police Station New Raipur, Tahsil Raipur, Civil & Revenue District Raipur (Chhattisgarh)
3. The Collector, Korba, Civil & Revenue District: Korba, Chhattisgarh
4. Block Medical Officer, Community Health Centre, Katghora, Civil & Revenue District Korba (Chhattisgarh)

5. Chief Medical And Health Officer, Korba, Civil & Revenue District
Korba (Chhattisgarh)

---- Respondents

For Petitioners	Shri Manoj Paranjpe, Advocate
For Respondent/State	Shri Dheeraj Wankhede, GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

06/10/2015

1. By a common impugned order passed in respect of both the petitioners, the Chief Medical and Health Officer, Korba has imposed penalty of stoppage of one increment without cumulative effect.
2. The impugned order has been passed on 11.05.2015 mentioning that during inspection by the District Level Inspection Committee on 11.05.2015, it was found that the petitioners have been negligent in implementation of the Indradhanush Scheme of the Government, therefore, penalty of withholding of one increment without cumulative effect is imposed on the petitioners with immediate effect. Thus, it is apparent from the impugned order itself that on the date of inspection itself, the impugned order has been passed. Thus, no opportunity of hearing has been granted to the petitioners.
3. It is settled law that an order having civil consequences or which amounts to imposition of penalty under the Service Rules ought not to be imposed without giving opportunity of hearing to the employees.
4. Be that as it may, no order visiting with civil (evil) consequences be passed without affording an opportunity of hearing.

5. It is well settled principle of law that if any order visits with civil consequences, the same is vitiated, if passed without affording an opportunity of hearing to the employee(s). (See: *Shrawan Kumar Jha and others v. State of Bihar and others*¹, *D.K. Yadav v. J.M.A. Industries Ltd. & Others*², *Basudeo Tiwari v. Sido Kanhu University & Others*³, *Canara Bank & Others. v. Debasis Das & Others*⁴, *Vivekanand Sethi v. Chairman, J&K Bank Ltd. & Others*⁵, *Mohd. Sartaj & another v. State of U.P. & Others*⁶, *Inderpreet Singh Kahlon & others Vs. State of Punjab & others*⁷, *Ashok Kumar Sonkar v. Union of India & Others*⁸, *State of Manipur & Others v. Y. Token Singh & Others*⁹, *Jaswant Singh Pratap Singh Jadeja v. Rajkot Municipal Corporation & another*¹⁰, *Nehru Yuva Kendra Sangathan v. Mehbub Alam Lashkar*¹¹ and *State of Punjab & Others v. Constable Avtar Singh (Dead) Through LRs.*¹²).”
6. For the foregoing, the writ petitions are allowed. The impugned order is quashed, however, liberty is reserved in favour of the respondents to proceed against the petitioners, in accordance with law.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala

1 AIR 1991 SC 310
2 (1993) 3 SCC 259
3 AIR 1998 SC 3261
4 (2003) 4 SCC 557
5 (2005) 5 SCC 337
6 (2006) 2 SCC 315
7 AIR 2006 SC 2571
8 (2007) 4 SCC 54
9 (2007) 5 SCC 65
10 (2007) 10 SCC 71
11 (2008) 2 SCC 479
12 (2008) 7 SCC 405