

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3404 of 2015**

- Virendra Kumar Upadhyay S/o Shri Radheshyam Upadhyay, Aged About 37 Years Post Data Entry Operator, R/o Akhrabhanta, Ward No. 9, Sakti District Janjgir Champa Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Department of Panchayat And Rural Development, Ministry, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh
2. The Upper Commissioner, Mahatama Gandhi Rastriya Gramin Rojgar Guarantee Parisad, Office of Head of Department, Indravati Bhavan, Block II, Second Floor, New Raipur Development Office, District Raipur Chhattisgarh
3. Chief Executive Officer, District Panchayat Janjgir Champa Chhattisgarh
4. Chief Executive Officer, Mahatama Gandhi Narega, Janpad Panchayat Malkharoda, District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner	:	Shri Alok Dewangan, Advocate
For Respondents-State	:	Shri YS Thakur, Dy. AG for the State

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

18/09/2015

1. Petitioner was appointed as Data Entry Operator in the MGNREGA, Janpad Panchayat, Malkharoda. On allegation of committing acts and omissions, including issuance of forged entries in the computer system etc., the petitioner was removed by the Chief Executive Officer, Zila Panchayat, Janjgir-Champa-cum-Additional District Program Coordinator, MGNREGA, Janjgir-Champa on 3-9-2014 (Annexure P-1). Against the above order, the petitioner preferred an appeal before the Additional Commissioner, MGNREGA, Raipur. His appeal has been dismissed by the appellate authority by Annexure P-2.

2. A reading of the order passed by the Additional Commissioner, MGNREGA, Raipur, would indicate that petitioner's appeal has been rejected only on the ground that in some other case, the State Government had opined that the Commissioner Revenue Division has no authority to entertain an appeal against an order whereby extension of contract service has been refused.
3. It is apparent that the appellate authority has not dealt with the merits of the grounds raised in petitioner's appeal and has relied on the State Government's directives/observation in some other case, whereas the present case is not a case of refusal to extend the contract service, but it is a case of removal from the contract service during its subsistence on the ground of being found involved in acts and omission including commission of forgery and interpolation in the record.
4. In the considered opinion of this Court, the Additional Commissioner, MGNREGA, should have decided the appeal, on its own merits, therefore, instead of keeping this petition pending, I deem it appropriate to dispose of the writ petition with a direction to the appellate authority to rehear petitioner's appeal and decide the same by speaking order, in accordance with law, at the earliest, preferably within a period of three months from the date of receipt of certified copy of this order.
5. It is made clear that this Court has not expressed any opinion on the merits of the case and the authority concerned shall decide the matter, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case. sd/-

Judge
Prashant Kumar Mishra

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