

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 6797 of 2008

M.R. Kumeti, S/o Shri J.R. Kumeti, aged about 40 years, Presently
Posted as Assistant Teacher Government Higher Secondary School,
Dantewada, District Dantewada (Chhattisgarh)

---Petitioner

versus

1. State of Chhattisgarh, Through the Secretary, Department of Tribal Welfare, D.K.S. Bhawan, Raipur (Chhattisgarh)
2. The Commissioner (Appellate Authority) Tribal and Schedule Caste Development, Raipur (Chhattisgarh)
3. The Collector, Dantewada, District Dantewada (Chhattisgarh)
4. District Project Coordinator Rajeev Gandhi Shiksha Mission, Dantewada, District Dantewada (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri P.P. Sahu, Advocate
For State/Respondents	:	Shri Raj Kumar Gupta, Deputy Advocate General

Hon'ble Shri Navin Sinha, Chief Justice

Order on Board

22/2/2016

1. Heard Learned Counsel for the Petitioner and the State.
2. The Petitioner was proceeded with departmentally. Two charges out of four were found proved. He was terminated on 31.8.2006. The appellate authority on 1.2.2008 opined that the punishment of termination was grossly disproportionate and ordered stoppage of five increments with cumulative effect as also that the period of suspension was to be treated in service for other service purposes except the intervening period from the date of termination till reinstatement by the appellate authority.
3. Learned Counsel for the Petitioner submits that the order of reinstatement by the appellate authority was itself evidence that dismissal was not justified and was grossly disproportionate to the charges. The Respondents cannot be permitted to take advantage of their own wrong in having imposed disproportionate punishment and then treat it as a break in service after reduction of the punishment.

4. Learned Counsel for the State submitted that the Petitioner has been found guilty on two charges in the departmental proceedings. The appellate authority has not exonerated the Petitioner. The punishment has already been reduced by the appellate authority. The Petitioner is not entitled to any further relief.

5. Having considered the submissions on behalf of the parties, the Court is of the considered opinion that the Petitioner is not seeking further relief but seeks necessary consequential relief by treating the entire period as in service because the termination has been held to be unjustified and disproportionate punishment. If the break in service is allowed, it shall essentially be giving the Respondents an advantage for their own wrong in having passed an excessive order of termination where major punishment of stoppage of five increments with cumulative effect was sufficient punishment according to them itself. A break in service has serious consequences.

6. That part of the order of the appellate authority which directs that the period from termination till reinstatement be treated as break in service is set aside and it is directed that the entire period from suspension till reinstatement by the appellate authority shall be reckoned in the manner otherwise directed by the appellate authority.

7. The writ petition is allowed to the extent indicated.

Sd/-

(Navin Sinha)
CHIEF JUSTICE