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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2494 of 2010**

- Premsukh Sinha S/o Shri Kalu Ram Sinha, aged about 45 years, R/o Rajiv Nagar, Near Sinha Bhawan, Police Station Durg, Tahsil And Distt. Durg (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through the Secretary, Water Resources Department, D.K.S. Bhawan, Raipur (C.G.).
2. Chief Executive Engineer, Mahanadi Godawari Kachchar, Water Resources Department, Raipur (C.G.)
3. Sub Divisional Officer, Sub Division, Tandula, Water Resources, Department Durg, Distt. Durg (C.G.)
4. Executive Engineer, Tandula, Water Resources, Department Durg, Distt. Durg (C.G.)

---- Respondents

For Petitioner	:	Shri VG Tamaskar, Advocate
For Respondents-State	:	Shri Rajendra Tripathi, PL for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****18/02/2016**

1. Questioning the legality and validity of the order Annexure P-1, passed by the Chief Engineer, Mahanadi Godawari Kachchar, Water Resources Department, Raipur on 3-5-10, learned counsel for the petitioner would argue that on 13-8-08 the petitioner was already regularized in service, therefore, his removal without holding a departmental enquiry on the pretext of non-furnishing of correct information in column 12 of the verification form is wholly illegal and arbitrary.
2. The petitioner was a daily wage watchman in the department of Water Resources from 1988. He was regularized in the service by order dated

13-8-08 (Annexure P-2). FIR of crime No.399/09 (Annexure R-6) was registered against the petitioner on 14-9-09 for committing offence under Section 376 IPC. The respondents have terminated the petitioner's services without holding any regular enquiry or issuing show-cause notice on the premise that the petitioner did not disclose registration of this offence in column 12 of the verification form.

3. Shri Tamaskar, learned counsel for the petitioner would argue that the petitioner had submitted the verification form, at the time of joining immediately after regularization and not at any point of time after registration of the offence, therefore, non-disclosure of pendency of a criminal case would not furnish a ground for his removal without holding a regular enquiry.
4. Shri Tripathi, learned Panel Lawyer for the State would submit that the document Annexure R-3 would establish that the verification form was submitted on 12-10-09, therefore, the crime having been registered prior to this date, the impugned order does not suffer from any illegality.
5. A reading of the document Annexure R-3 would disclose that the verification form of several labourers were submitted before the Sub-Divisional Officer, Water Resources Department on 12-10-09. It is nowhere written in Annexure R-3 that the verification form was filled by the concerned labourer on 12-10-09. There is one more reason why the form could not have been filled by the petitioner on 12-10-09, because on the said date he was incarcerated in the concerned jail. He was released by this Court on bail under Section 439 Cr.P.C. by order dated 9-11-09 in M.Cr.C No.2479/2009 (Annexure P-3). It is clearly mentioned in para 3 of the order that the petitioner was taken into custody on 7-10-09. Thus, the petitioner was not available in the office on 12-10-09 for filling any form and it appears highly

probable that the form was submitted at the time of joining immediately after issuance of order of regularization.

6. In addition, the verification form Annexure R-2 has not mentioned the date on which the form was filled and submitted by the petitioner. The petitioner has signed at only one place in the verification form and has not signed declaration at the bottom of column 13. Page 5 of the verification form is also not complete. The said part of the verification form was required to be signed by a Gazetted Officer or Sub-Divisional Magistrate or Member of Parliament or Legislative Assembly. It also requires carrying the name of the appointing authority and the post on which the concerned employee has been considered for appointment. In the absence of relevant column of the verification form being fully filled, the form itself was not complete, therefore, the petitioner could not have been removed on the basis of such incomplete verification form which was presented by him before his arrest. Since on the date of issuance of the impugned order, the petitioner was already regularized, he could not have been removed without following a regular enquiry.
7. Since it is not a case where non-disclosure of material information in column 12 of the verification form is attracted, a departmental enquiry was required to be constituted against the petitioner.
8. For the foregoing, the writ petition is allowed. The impugned order of termination is quashed, however, liberty is reserved in favour of the respondents to proceed in accordance with law.

Sd/-

Judge
Prashant Kumar Mishra

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