

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No.289 of 2016

1. State Of Chhattisgarh Through Secretary, Department Of Water Resources, Mahanadi Bhawan, Naya Mantralaya, Naya Raipur, P. S. Mandir Hasaud Raipur (Chhattisgarh).
2. The Chief Engineer, Mahanadi Godawari Kachchar, Water Rasources Department, Raipur (Chhattisgarh).
3. The Sub Divisional Officer, Sub Division, Tandula, Water Resources Department, Durg, District Durg (Chhattisgarh).
4. The Executive Engineer, Tandula, Water Rasources Department, Durg, District Durg (Chhattisgarh).

---- Appellants

Versus

Premasukh S/o Shri Kalu Ram Sinha, Aged About 45 Years R/o Rajiv Nagar, Near Sinha Bhawan, Police Station Durg, Tahsil And District Durg (Chhattisgarh).

---- Respondent

For Appellants/State : Shri Yashwant Singh Thakur, Deputy Advocate General
For Respondent : Shri V.G. Tamaskar, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

Per Deepak Gupta, Chief Justice

08/08/2016

1. This appeal by the State is directed against the judgment dated 18.2.2016 passed by the Learned Single Judge of this Court in Writ Petition (S) No.2494 of 2010, wherein the Learned Single Judge allowed the writ petition filed by the writ Petitioner (Respondent herein) setting aside the order of his termination with liberty reserved to the State to proceed in accordance with law.
2. The case of the Appellants is that the writ petitioner was appointed as Watchman in the Water Resources Department in the year 1988 and was regularised on 13.8.2008. According to the Appellants, on 14.9.2008

FIR was lodged against the writ petitioner alleging that he was involved in commission of offence under Section 376 IPC. It is not disputed that the writ petitioner was arrested on 7.10.2009 and released on bail on 9.11.2009. In the meantime, on 14.9.2009 a verification form purported to have been signed and filled up by the writ petitioner was filed and in the said verification form, it was not mentioned about the rape case or the arrest of the writ petitioner, etc. The police authorities sent the report for verification and then it came to light that Crime No.399 of 2009 has been registered against him on 14.9.2009 at Police Station Pulgaon, District Durg for the offence punishable under Section 376 IPC. Immediately thereafter, on 3.5.2010, a termination order has been passed against him without holding any departmental enquiry. The writ petitioner was a regular employee and no order of his termination could have been passed without giving him a show-cause notice and holding an enquiry.

3. The case of the writ petitioner is that since he was in jail, therefore, he could not have submitted the verification form. We are not going into this question because that will have to be decided on the basis of evidence led before the Enquiry Officer. We however find no merit in the writ appeal because the services of the writ petitioner could not have been terminated without holding a proper departmental enquiry.

4. In view of the above, the appeal is dismissed and the order passed by the Learned Single Judge is affirmed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay K. Agrawal)
JUDGE