

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 67 of 2016**

1. Chhattisgarh State Civil Supplies Corporation Limited Through Its Chairman, Hitwad Bhawan, Avanti Vihar, Telibandha, Raipur, Chhattisgarh.
2. The Managing Director, Chhattisgarh State Civil Supplies Corporation Ltd. Hitwad Bhawan, Avanti Vihar, Telibandha, Raipur, Chhattisgarh.
3. Company Secretary And Enquiry Officer, Chhattisgarh State Civil Supplies Corporation Ltd. Hitwad Bhawan, Avanti Vihar, Telibandha, Raipur, Chhattisgarh.

---- Appellants**Versus**

Udho Prasad Sharma S/o Shri S. P. Sharma, Aged About 60 Years R/o M D 35/ CG Housing Board Colony, P. S. Saraswati Nagar, Kota, Raipur, District Raipur, Chhattisgarh.

---- Respondent

For Appellants:
For Respondent:

Shri NK. Vyas, Advocate.
Shri Sunil Pillai, Advocate.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board**Per Navin Sinha, Chief Justice****26/02/2016**

1. The present appeal arises from order dated 30.11.2015 allowing Writ Petition (S) No.1264/2013. The Learned Single Judge held that in absence of any statutory provision under the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 for continuance of departmental proceedings after superannuation, it was not maintainable and quashed the two charge sheets dated 14.2.2008 and 29.8.2008.
2. Learned Counsel for the Appellants submitted that pursuant to charge sheet dated 14.2.2008, enquiry report had also been submitted on 7.1.2013 before superannuation of the Respondent. The proceedings in charge sheet

dated 29.8.2008 were yet to commence. In the Writ Petition, the only ground of challenge was to continuance of the proceedings after superannuation in absence of statutory provision. The allegations were serious against the Respondent for causing financial loss to the State.

3. It is submitted that if there was no provision for continuance of departmental proceedings after superannuation, the proceedings will lapse in absence of statutory powers. In absence of any challenge on merits to either of the charge sheets that on the face of it, no offence was made out, and an adjudicatory order by the Court with regard to the same, the charge sheet could not have been quashed. If enquiry report had been submitted in one of them before superannuation, the proceedings were required to be taken to its logical conclusion in accordance with law if the Respondent had not superannuated. The proceedings therefore lapsed. The connotation of the words “quashed” and “lapsed” are different. The former is a finding on merits which precludes any further action for recovery by the State in accordance with law either by way of a suit or otherwise while in the latter case, if there are other remedies available in the law for recovery, it can be pursued.

4. Learned Counsel for the Respondent submitted that the Learned Single Judge has quashed the charge sheets because the proceedings itself were no more maintainable after superannuation and the Respondent is therefore entitled to consequential benefits in accordance with law.

5. We have considered the submissions on behalf of the parties and find substance in the limited submission on behalf of the Respondent that pursuant to the order under appeal, he is entitled to superannuation benefits in absence of any express statutory provision to continue the proceedings after his superannuation.

6. But equally, the submission on behalf of the Appellants that it cannot

be denied the right to take any such appropriate steps in the law as available to it including a suit for recovery and that connotation of words “quashed” and “lapsed” would have vital consequences cannot be ignored.

7. We do not find from the Writ Petition that there was any challenge laid out to the two charge sheets that on the face of it no charge was made out. Quashing of the charge sheet tantamounts to holding that no charge was made out. If an enquiry report had been submitted in any one of them, there was no occasion to quash the charge sheet as matters had proceeded beyond that. The proceedings essentially lapsed in absence of statutory empowerment evident from the language used in the judicial precedents relied upon by the Learned Single Judge.

8. We therefore modify the judgment under appeal at paragraph-12 only to the extent that the direction quashing the two charge sheets is set aside and it is held that the departmental proceedings against the Respondent have lapsed after superannuation with its attendant consequences in absence of any authority to proceed under the law.

9. The appeal is disposed with the aforesaid modification.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE