

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 269 of 2016**

Mohanlal Goyal S/o Shri Monoharlal Goyal, Aged about 71 years, Senior Agriculture Development Officer (Now dismissed from service) Office of the Sub Divisional Agriculture Officer, Korba, District Korba, Chhattisgarh.

---- Appellant**Versus**

- 1.State of Chhattisgarh, Through the Secretary, Department of Agriculture Mahanadi Bhawan, Mantralaya, Naya Raipur, Civil and Revenue District Raipur, Chhattisgarh.
- 2.The Director of Agriculture, Chhattisgarh, DKS Bhawan, Raipur, Chhattisgarh.
- 3.The Deputy Director of Agriculture, Korba, District Korba, Chhattisgarh.
- 4.Sub Divisional Agriculture Officer Korba, District Korba, Chhattisgarh.

---- Respondents

For Appellant : Shri G.P.Mathur, Advocate.

For Respondents/State : Shri Ramakant Mishra, Deputy Advocate General.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Deepak Gupta, Chief Justice****22/06/2016**

1. There is 18 days delay in filing the appeal. The Appellant is out of service for the last many years and he has challenged the order of termination and therefore we find sufficient ground to condone the delay. Accordingly, delay is condoned.
2. This appeal is directed against the order dated 09.03.2016 passed by learned Single Judge in WP (S) No. 1441 of 2005 whereby the writ petition filed by the Petitioner for quashing the order of dismissal from service imposed upon him

has been rejected.

3. Briefly stated facts of the case necessary for disposal of this appeal are that the Appellant was posted as Assistant Project Officer, Kartala, District Korba on 16.08.1988. A charge sheet was served upon him. There were six charges levelled against him. The charges were of negligence in performance of duties; misappropriation of public funds; dereliction in duties; violation of the Conduct Rules and disobedience of the orders passed by the senior authorities. We are for the sake of deciding this appeal not going to the other charges but charge No. 2, 2A to 2G, charge No. 3 and charge No. 4A and 4B related to misappropriation/embezzlement of public funds and charge No. 5 deals with temporary embezzlement of funds. As per the charge sheet the petitioner had paid the less amount to two Rural Agricultural Extension Officers despite the fact that he himself withdrew the full amount which was to be paid to them. The Enquiry Officer conducted the enquiry, examined large number of witnesses and the department also proved on record a lot of documentary evidence to prove the charges. The charges were found proved against the Appellant. Thereafter, charge sheet was served upon him. The Appellant filed reply to the charge-sheet but the Disciplinary Authority did not agree with him and imposed penalty of dismissal from service. The Appellant thereafter filed Original Application before the Madhya Pradesh State Administrative Tribunal at Jabalpur, in the year 1996. Unfortunately, this Original Application was not decided by the Tribunal and after abolition of the Tribunal, the case was transferred to this Court and was registered as WP (S) No. 1441 of 2005 and finally dismissed by the learned Single Judge by the impugned order on 09.03.2016.

4. The only argument raised before us is that the penalty imposed upon the Appellant is too excessive and highly disproportionate to the offence committed. In this regard, learned counsel for the Appellant has placed reliance on a judgment passed by a Division Bench of this Court in WA No. 138 of 2016 (State of

Chhattisgarh & Others v. Agamdas Manikpuri) decided on 11.04.2016 in which case the Division Bench found that the penalty of dismissal from service was an extreme punishment and directed it to be substituted by minor penalty to the satisfaction of the authorities.

5. We are of the considered opinion that Agamdas Manikpuri (supra) is not applicable to the facts of the present case. In that case, the writ petition filed by the petitioner was allowed by the learned Single Judge but the learned Single Judge only held that one charge which related to wrong utilization of part final loan taken from the GPF account was held to be established. Therefore, in that case, the only charge proved against the delinquent official was that he had himself misutilized the loan granted from his GPF account for the purpose other than for what he had applied. There was no embezzlement of public funds.

6. As far as the present case is concerned, the petitioner has been found guilty of embezzlement of public funds. No lenience can be shown in the facts of the present case.

7. We therefore find no reason to reduce the penalty imposed upon the Appellant. The appeal is dismissed.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE