

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 272 of 2016**

Santosh Das Mahant S/o Late Shri Baboo Das Mahant, Aged About 53 Years
Ex Peon Of Forest Department, Bilaspur Chhattisgarh, R/o Village Bhuva
Bichiya, Tahsil Bichiya, P.S. Bichiya, District Mandla (Madhya Pradesh)

---- Appellant**Versus**

1. State of Madhya Pradesh Through Its Secretary, Department of Forest Vallabh Bhavan Bhopal M.P. Now State Of Chhattisgarh Through Secretary Department of Forest, Naya Raipur Mantralaya, Raipur Chhattisgarh
2. The Chief Conservator of Forest, M.P. Having Its Office At Vallabh Bhawan, Bhopal M.P. Now Chief Conservator of Forest Raipur Chhattisgarh
3. The Conservator of Forest , Bilaspur City Tahsil And District Bilaspur M.P. Now Chhattisgarh.
4. The District Forest Officer, Social Forestry, Bilaspur Division, Bilaspur M.P. Now Chhattisgarh
5. The Sub Divisional Officer, Forest Bilaspur M.P. Now Chhattisgarh

---- Respondents

For Appellant : Shri Vinod Deshmukh, Advocate.

For Respondents/State : Shri Yashwant Singh Thakur, 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****23/06/2016**

1. This appeal is directed against the order dated 5.4.2016 passed by learned Single Judge in Writ Petition (S) No. 2747 of 2015 whereby the Learned Single Judge dismissed the writ petition filed by the Appellant/writ Petitioner.
2. The undisputable facts are that the services of the Appellant were terminated on the ground that he had willfully absented from attending duties. On the first blush, this penalty appears highly disproportionate but the facts of this

case stand out to show that the penalty is absolutely justified in the facts and circumstances of the case.

3. The Appellant was granted appointment as Peon on compassionate ground on 27.9.1989. His services were terminated in the year 1997. In the period of eight years of his service, his record has been dismal. In the impugned judgment, it has been noticed that in the year 1990 within one year of his appointment, a warning was issued to the Appellant for being absent from duties. In the year 1991 on one occasion, he was granted half day leave, but he had absented for several days and which was treated as "Leave Without Pay". Again in 1991, on other two occasions, he had absented and his leave was treated as "Leave Without Pay" and similarly one in the year 1992, twice in the year 1993 the Appellant remained willfully absent and the period of absence was treated as 'Leave without Pay'. In the year 1995, the Appellant was in fact suspended for willful absence from duties and punishment of stoppage of three increment was imposed upon him. Later, this punishment was reduced to stoppage of one increment. After this punishment, one would have expected the Appellant to do his job sincerely but he did not do so. In the very next year i.e. 1996, two days leave was treated as "*dies non*" and punishment of stoppage of one increment was imposed on the Appellant for dereliction in performing duties during Lok Sabha Elections when he again remained absent for 17 days and this was also ordered to be treated as "Break in Service". Thereafter, the Appellant again remained absent.

4. The Learned Single Judge rightly held that the Appellant was not sincere in his duties and he is a habitual absenter. No lenience can be shown in the facts of the present case.

5. We therefore find no merit in the writ appeal. The appeal is dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE