

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2874 of 2007

- Hemant Kumar Sahu S/o Shri Chhannu Lal Sahu, Shiksha Karmi Gr Iii, At Naktapar (Bindrawan), Tahsil-, District-Mahasamund,

---- Petitioner

Versus

1. State Of Chhattisgarh & 3 Ors.
2. District Education Officer, Tahsil-, District-Mahasamund,
3. Chief Executive Officer Zila Panchayat, Mahasamund, Tahsil-, District-Mahasamund,
4. Collector Mahasamund, , , Tahsil-, District-Mahasamund,

---- Respondent

For Petitioner	Shri Sunil Sahu, Advocate.
For Respondents/State	Shri Adhiraj Surana, Dy. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

25/10/2017

1. Petitioner would call in question the order passed by the Collector Mahasamund on 25.04.2007 cancelling the petitioner's selection on the post of Shikshakarmi Grade-III [now known as Assistant Teacher (Panchayat)].
2. From the arguments raised at the bar and on perusal of

the papers available, it would appear that by order dated 30.07.2005 the petitioner was appointed as Shikshakarmi-III by Janpad Panchayat Bagbahara. While making such appointment in favour of the petitioner, he was allowed weightage of 2.5 marks for his participation in the sports activities. This was done on the strength of certificate of participation issued by the Principal of School where the petitioner has studied.

3. On complaint made to the Collector, the inquiry was conducted wherein it was found that in absence of the petitioner having participated in any sports activities at the Divisional Level and in absence of such certificate issued by any competent authority at the Divisional Level, he should not have been allowed 2.5 marks for sports activities.
4. Based on the inquiry report the Collector cancelled the appointment without issuing any show cause notice or giving any opportunity of hearing to the petitioner.
5. In **State of Punjab & Ors. v. Senior Vocational Staff Masters Association & Ors. (AIR 2017 SC 4072)**, the Supreme Court has held thus in paras 20 & 21 :

20) It is by now well settled that no orders causing civil consequences can be passed, without observing rules of natural justice as it was held in [Bhagwan Shukla vs. Union of India & Ors.](#) AIR 1994 SC 2480 wherein it was held as under:

“3. We have heard learned counsel for the parties. That the petitioner's

basic pay had been fixed since 1970 at Rs, 190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs. 181 p.m. from Rs. 190 pan. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show-cause against the reduction of his basic pay. He was not, even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There, has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991. which was impugned before the Tribunal could not certainly be

sustained and the Central Administrative Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9,1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant From Rs. 190 to Rs. 181 w.e.f. 18.12,1970.”

21) The order dated 16.07.2003 came to be made behind the back of vocational masters without following any procedure known to law. Thus, there has been a flagrant violation of the principles of natural justice and the respondents had been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter.

6. Since, admittedly, the petitioner was working on the post on the date when the impugned order has been passed but he was not served with any show cause notice inviting his explanation for the impugned action, the order has been passed in gross violation of principles of natural justice, therefore, the same deserves to be and his hereby

quashed. However, liberty is reserved in favour of the competent authority to initiate fresh proceedings against the petitioner and take action in accordance with law, if it so desires.

Sd/-

Judge
Prashant Kumar Mishra

Akhilesh