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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 3774 of 2004**

Hari Narayan Kosle, aged 53 years, Son of Dhursai, Ex-Head Constable No. 791, District Rajnandgaon (C.G.)

---- **Petitioner****Versus**

1. The State Government of Chhattisgarh, Through the Secretary, Home Deptt. D.K.S. Bhavan, Raipur (C.G.)
2. The Director General of Police, Police Head Quarter, Raipur (C.G.)
3. Inspector General of Police, Raipur (C.G.)
4. District Superintendent of Police, Durg (C.G.)
5. District Superintendent of Police, Rajnandgaon (C.G.)

-- Respondents

For Petitioner	:	Mr. Ajay Shrivastava, Advocate.
For Respondents	:	Mr. P.K. Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****29.06.2017**

(1) The petitioner was inflicted with the penalty of removal from service by order dated 21.6.2004 passed by Superintendent of Police, Rajnandgaon. Charge against the petitioner was that he remained absent from duties. The petitioner preferred appeal there-against. The appeal was dismissed by the Inspector General of Police, Raipur vide order dated 16.09.2004.

(2) Learned counsel for the petitioner would submit that the

appellate authority while hearing the appeal has not considered the grounds raised in the appeal and the material available on record and passed unreasoned and non-speaking order, which is liable to be set aside.

(3) On the other hand, counsel for the respondents would support the impugned orders dated 21.6.2004 and 16.9.2004. He would also submit that the petitioner was proceeded against in a different departmental enquiry wherein order of punishment was imposed vide order dated 24.08.2004 (Annexure P-15) by which, the petitioner was imposed with the penalty of reduction of lowest pay scale for a period of one year with cumulative effect.

(4) A careful perusal of the appellate order dated 16.09.2004 would show that firstly the facts of the case have been mentioned by the appellate authority and thereafter it has been recorded that on perusal no specific grounds were found to be raised in the appeal, therefore, looking to the seriousness of the charges, appeal is dismissed, which is wholly impermissible as the appellate authority ought to have considered the material on record to judge the correctness of grounds raised in the memo of appeal while deciding the appeal and, therefore, the impugned order is liable to be set aside.

(5) Accordingly, the writ petition is allowed. Impugned orders dated 21.06.2004 & 16.09.2004 are set aside. Appellate authority shall decide the appeal afresh after affording due opportunity of hearing to both the parties within a period of three months from the date of receipt of copy of this order.

(6) As far as order dated 24.8.2004 (Annexure P-15) is concerned, the same arises out of a different departmental enquiry, which ought to have been challenged by petitioner separately and, therefore, the petitioner is granted liberty to challenge the order dated 24.08.2004 before appropriate forum in accordance with law.

(7) With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)

Judge

D/-