

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4281 of 2007**

- Ramajhu Ram Dewangan S/o. Late Shri Nandu Ram Dewangan, aged 60 years, Retd. Health Supervisor, R/o. Ward No.1, Near Church, Ambagarh Chouki, Distt. Rajnandgaon (C.G)

---- Petitioner**Versus**

1. State of Chhattisgarh Through Director, Health Services, Raipur (C.G.)
2. Chief Medical & Health Officer Rajnangaon, Distt. Rajnandgaon (C.G)

---- Respondents

For Petitioner	:	Shri Amiyakant Tiwari, Advocate
For Respondents-State	:	Shri SP Kale, Dy. AG for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****27/04/2017**

1. Petitioner is aggrieved by the order Annexure P-5 dated 20.03.2003 and Annexure P-6 dated 22.06.2004, whereby the petitioner has been imposed punishment of stoppage of one increment with cumulative effect and not allowing any other amount during the period of suspension over and above the amount of subsistence allowance already paid to him.
2. Having heard Shri Amiyakant Tiwari, learned counsel for the petitioner and Shri SP Kale, Dy. AG for the State, the writ petition deserves to be allowed for the simple reason that having suspended the petitioner while he was working as Health Supervisor, Department of Health, Rajnandgaon on 22.09.2001 he was served with a charge-sheet on 28.09.2001, to which the petitioner replied but thereafter no order was passed constituting the

departmental enquiry by appointing the enquiry officer or proceeding in the matter in accordance with Rule 14 of the Chhattisgarh Civil Services (Classification, Control & Appeal) Rules, 1966 (for short 'the Rules, 1966') instead the Chief Medical and Health Officer, Rajnandgaon issued a communication to the petitioner on 24.02.2003 that the charges have been found proved against him. Since there is no enquiry report, there was no question of compliance of Article 311 of the Constitution of India or following the law laid down by the Supreme Court in the matter of **Managing Director, ECIL, Hyderabad & Ors. Vs. B. Karunakar & Ors.**¹.

3. It appears, the enquiry against the petitioner was an eye wash as the same was neither validly constituted nor conducted in accordance with the Rules, 1966. Moreover, the petitioner was visited with punishment of stoppage of one increment with cumulative effect, which by itself is a major punishment, therefore, it could not have been imposed without holding a regular enquiry.
4. For all the above stated reasons, the petition deserves to be and is hereby allowed. The Orders Annexure P-5 dated 20.03.2003 and Annexure P-6 dated 22.06.2004 are hereby set aside. The petitioner is entitled for full salary for the period of suspension. Let the payment be made to the petitioner within a period of three months from the date of submission of representation along with certified copy of this order.

Sd/-

Judge

Prashant Kumar Mishra

Ashu

1(1993) 4 SCC 727