

No. 1411/02
 Filed today 23.4.02
 by Shri S. P. Bhatnagar
 Registrar,
 M. P. State Adm. Tribunal,
 RAIPUR.

No.
 Filed today
 by Shri
 Registrar,
 M. P. State Adm. Tribunal,
 RAIPUR.

IN THE M.P. ADMINISTRATIVE TRIBUNAL, RAIPUR (C.G.)

Handwritten: J. K. Bhatnagar

Superintendent of Post

Matric Schedul caste Boys, hostel,

Pensionbada, Raipur

R/o Telibandha, Raipur C.G.

... Applicant

Vs.

(i) The Collector of Raipur (C.G.)

(ii) Inquiry Officer - Departmental

Court of I.O. Raipur,

Collectorate, Finance

(Pradeep Kumar Mishra)

(iii) Commissioner Raipur

div. Raipur

(iv) State of CG Through Sec. fin. depart.

D.K.S. Bhawan Mantralaya, Raipur

... Non/ Applicants

Respondents

Handwritten: Application u/s 19 of the Administrative Tribunal Act

(3) The application is against the

following orders:-

(1) Order No. K/ VII/ 97 dt. 26.3.1997 passed by
 the collector, Raipur - Suspension

Order

...

With reference to

Annexure : 1

(2) Departmental Inquiry case No. 4/97 dt. 26.2.1998
 passed by the court of Departmental I.O.

Raipur - Inquiry Report.

...

with reference to

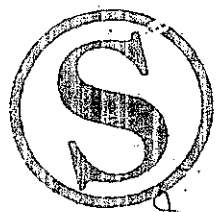
Annexure: 2

(3) Order No. K/will /Che/ 17/99 dt. 15.4.99 passed
 by the collector, Raipur - Punishment given

...

with reference to

Annexure : 4



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NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4779 of 2005

• J.K.Bhatpahari

---- Petitioner

Versus

• State And Ors.

---- Respondent

For Petitioner	:	Shri Sunil Sahu, Advocate
For Respondents-State	:	Shri SP Kale, Dy. AG with Shri Arvind Dubey, PL for the State.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

02/05/2017

1. Petitioner would assail the order of punishment Annexure No.4, passed by the Collector, Raipur on 05.04.1999 and the appellate order passed by the Commissioner, Raipur Division, Raipur on 24.04.2001, whereby the petitioner has been visited with penalty of stoppage of one increment without cumulative effect with further direction that the period of suspension shall be counted for the purposes of pension only and for the said period he shall not be entitled for any other amount over and above the amount of subsistence allowance.
2. Although, learned counsel for the petitioner has assailed the findings recorded by the enquiry officer as confirmed by the disciplinary authority and the appellate authority, however, the same is not open to challenge in view of the law laid down by the Supreme Court in the matter of **General Manager (Operations) State Bank of India and Another Vs. R.**



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Periyasamy¹.

3. Having heard Shri Sunil Sahu, learned counsel for the petitioner and Shri SP Kale, learned Dy. AG for the State, this Court does not find any such patent error of law or jurisdiction committed by the enquiry officer or by the disciplinary authority while conducting the departmental enquiry and imposing punishment, however, only one aspect of the matter which is required to be considered is that whether direction by the disciplinary authority that the period of suspension from 26th March, 1997 till January-1999 shall only be counted for pension and not for other purposes needs attention of this Court.
4. If the above said direction is worked against the petitioner, he will lose his seniority for the period of suspension, however, show-cause notice for the proposed punishment issued to the petitioner has not referred to the said part of the punishment, therefore, prima facie, if the said punishment was never in contemplation in the mind of the disciplinary authority at the time of issuance of show-cause notice, the same ought not to have been imposed. It is not a case where the disciplinary authority has passed the order only for the purposes of regularizing the period of suspension because the same could have been done by mentioning that the period of suspension shall be treated to be on duty but the petitioner shall not be entitled for any other amount over and above the amount of subsistence allowance already received by him. Strangely, instead of passing such order, the disciplinary authority has passed an order which would affect petitioner's seniority. Considering the issue from another angle if the petitioner remained in suspension from March, 1997 to January, 1999 and the said period shall not be treated for any other purpose than for the purposes of pension, he may



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lose the increment for this period, whereas the punishment imposed on him is for stoppage of one increment without cumulative effect. If both the parts of the order of punishment is implemented against the petitioner, the punishment is much more than the one substantively and expressly imposed by the disciplinary authority.

5. For the foregoing, the writ petition deserves to be and is hereby allowed in part. While maintaining the order imposing punishment of stoppage of one increment without cumulative effect, it is directed that the period of suspension shall be treated to be on duty and the petitioner shall not be entitled for any amount over and above the amount of subsistence allowance received by him during the said period.

Sd/-

Judge

Prashant Kumar Mishra

Ashu