

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3376 of 2017

Surendra Shukla S/o Late Shri P. N. Shukla, Aged About 49 Years Occupation
Stenographer To Additional Session Judge, Katghora, District Korba Chhattisgarh
Resident Of Jabda Road Sarkanda, District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Law Department, Mahanadi Bhawan New Mantralay, District Raipur Chhattisgarh
2. The Registrar General High Court Of Chhattisgarh High Court Campus Bodri (Chakarbhata) District Bilaspur Chhattisgarh
3. The District And Session Judge, Korba, District Korba, Chhattisgarh.
4. Smt. Mohanmati W/o Shri Santosh Kumar Rajak, R/o Village Chhirra, P. S. Katghora District Korba Chhattisgarh (Complainant)

---- Respondents

Shri Prakash Tiwari, counsel for the petitioner/s.
Shri Manish Nigam, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

27/07/2017

This petition has been filed by the petitioner assailing validity of the proceedings by which, a show cause notice proposing penalty of dismissal from service has been issued by the disciplinary authority along with a copy of enquiry report to the petitioner, the delinquent employee.

2. The sole submission of learned counsel for the petitioner is that the authority has prejudged the issue and has made up his mind and therefore, notice is illegal in view of decision of the Supreme Court in the case of **M/s. Siemens Ltd. V. State of Maharashtra and others, 2006 (12) SCC 33**. He submits that in the case of Smt. Shitla Diwan v. State of Chhattisgarh and ors in WPS No.5780/2016, vide order dated 24/01/2017, this Court also applied the same principle in a matter arising out

of compassionate appointment where decision to revoke appointment was already taken reflected in the show cause notice itself.

3. The submissions made by learned counsel for the petitioner are not acceptable in law because present is a matter arising out of departmental proceedings. The petitioner was given a charge sheet and a full fledged departmental enquiry was held against him in accordance with Rule 14 of the M.P. (C.G.) Civil Services (Classification, Control and Appeal) Rules, 1966 (for short 'the Rules of 1966'. After completion of enquiry, the enquiry officer prepared an enquiry report and forwarded it to the disciplinary authority. Consistent with the procedure prescribed under the administrative instructions requiring show cause notice to be given to the delinquent employee, the impugned notice has been issued.

4. It is not a case that while giving charge sheet, the authority has prejudged the issue. In cases of departmental enquiry, it is permissible under the law for the disciplinary authority to impose penalty if it agrees with the enquiry report. The only requirement would be that copy of enquiry report will have to be supplied to the delinquent employee in view of judgment of the Supreme Court in the case of **Union of India and ors. v. Mohd. Ramzan Khan, 1991 (1) SCC 588** and **Managing Director, ECIL v. B. Karunakar, 1993 (4) SCC 727**. That much of requirement of principles of natural justice has been duly complied with while forwarding a copy of enquiry report. Merely because the authority proposed to impose penalty and seeks reply of the employee as to why the proposed penalty should not be imposed, it cannot be said that before reaching to a conclusion of guilt, the authority has prejudged.

5. The principles laid down in the case of **M/s. Seimens Ltd. (supra)** and **Shitla Diwan (supra)** are not applicable on the facts of the present case because the petitioner was given full opportunity of hearing in the departmental enquiry. On facts, those cases are completely distinguishable as they did not relate to departmental enquiry.

The petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge