

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition No.3117 of 2005

S.D. Salokhe, aged about 58 years, S/o late Shri D.S. Salokhe R/o 53 Bhakti Laxmi Cooperative Society, Shinganapur Phata, Tahsil Karvir, District Kolhapur (Maharashtra) 416010.

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary Department of Home DKS Bhawan, Mantralaya Raipur (CG).
2. Deputy Secretary, Department of Home (Police) DKS Bhawan, Mantralaya Raipur (CG).
3. Secretary, Department of Finance DKS Bhawan, Mantralaya Raipur (CG).
4. The Director, Sainik Welfare Board Collectorate Compound Raipur (CG).

--- Respondents

For Petitioner : Mr. Prateek Sharma, Advocate.
For State : Mr. Arun Sao, Deputy Advocate General

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

14/12/2017

Heard.

(1) The petitioner was appointed as Director, Sainik Kalyan Board, Chhattisgarh on contractual basis by order dated 01.01.2003 for a period of three years, but his services were terminated after giving one month notice by order dated 27.06.2005 finding that a criminal case has been registered against him and he is also involved in making illegal appointments, against which this writ petition has been filed.

(2) Learned counsel appearing for the petitioner would submit that the impugned order is stigmatic in nature, the same is bad in law and thus deserves to be set aside.

(3) I have heard learned counsel for the parties.

(4) It is not in dispute that the petitioner was purely appointed on contractual basis and his service was terminable, after giving one month prior notice. It is also not in dispute that the petitioner has been terminated finding that he has committed misconduct in discharge of his duties and impugned order is not termination simplicitor and the same is stigmatic in nature.

(5) The Apex Court, in more than one case, has held that when an order of termination involves civil consequences and consequently amounts to stigma, the same cannot be passed without there being a charge memo, enquiry and the finding as to those charges. This proposition of law has been recently reiterated by the Apex Court in the judgment **State of Haryana v. Satyender Singh Rathore** reported in **2005(7) SCC 518**. In that judgment, the Supreme Court has relied upon the earlier judgment **Dipti Prakash Banerjee v. Satyendra Nath Bose National Centre for Basic Sciences** reported in **1999 (3) SCC 60**, and has held that if findings were arrived at in an enquiry as to misconduct behind the back of the officer or without a regular departmental enquiry, the simple order of termination is to be treated as “founded” on the allegations and will be bad.

(6) In view of the above pronouncement of the Apex Court, the impugned order is hereby set aside. The respondents are at liberty to proceed in accordance with law.

(7) However, the petitioner will not be entitled for consequential benefits particularly back-wages applying the principles of 'no work no pay'.

(8) With the aforesaid observation, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

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