

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 4247 of 2012**

Narendra Kumar Sharma S/o Late Haridayal Sharma, aged about 61 years, Flat No. 308, Shwethansh Parisar, Deendayal Upadhyay Nagar, Daganiya, Tahsil & Distt. Raipur, C.G.

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Department of Co-Operative, D.K.S. Bhawan, Mantralaya Raipur, C.G.
2. C.G. Rajya Sahakari Vipran Sangh Maryadit through its Managing Director, C.G. Rajya Sahakari Vipran Sangh Maryadit, 880, Civil Lines, Raipur, C.G.
3. Secretary (Enquiry Officer) C.G. Rajya Sahakari Vipran Sangh Maryadit, 880, Civil Lines, Raipur, C.G.

---- Respondents

For Petitioner	:	Shri Sourabh Sharma, Advocate
For Respondent no.1/State:	:	Shri Shashank Thakur, Govt. Advocate
For Respondents 2 & 3	:	Shri Shailendra Shukla, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****28/02/2017**

The present petition has been preferred assailing the order dated 21.05.2012 Annexure P-6 whereby the Disciplinary Authority i.e. respondent no.2 differing from the enquiry report furnished in the case of the petitioner, has ordered for a fresh enquiry and also ordered for appointment of a new Enquiry Officer for conducting an enquiry in respect of the charges which were levelled against the petitioner vide charge sheet dated 18.02.1999.

2. The challenge is also to Annexure P-1 which is an intimation issued by the Enquiry Officer i.e. respondent no.3 directing the petitioner to appear before the Enquiry Officer for holding the departmental enquiry.

3. The relevant facts in the present case in brief are that the petitioner was working as Assistant Engineer under the respondents. On 18.02.1999, a charge sheet was issued to the petitioner in respect of certain allegations of misappropriations and irregularities committed by him during the period from 1995 to 1998. Reply to the charge sheet was filed in the year 1999 itself. The enquiry went on for almost a decade and in the course, three Enquiry Officers and five Presenting Officers were changed. Finally, an enquiry report was submitted on 30.03.2009. As per the enquiry report, the petitioner was exonerated from all the charges levelled against him. The Disciplinary Authority did not take any action on the enquiry report so submitted on 30.03.2009. Meanwhile, the petitioner attaining the age of superannuation retired from his service w.e.f. 31.05.2011. Even then the respondents did not take any action neither did they pass any order on the report submitted by the Enquiry Officer. Meanwhile, the petitioner filed an application for settlement of his retiral dues and it is only then that the Disciplinary Authority issued the impugned order dated 21.05.2012 Annexure P-6 differing with the view taken by the Enquiry Officer and ordered for appointment of a new Enquiry Officer for holding a fresh enquiry altogether.

4. It is this order dated 21.05.2012 which is under challenge in the present writ petition.

5. Counsel for the petitioner submits that the petition deserves to be allowed on the ground that the respondents are deliberately harassing the petitioner with an intention that he may not enjoy his retired life by denying his retiral dues. According to the counsel for the petitioner, the act on the part of the respondents directing for a fresh enquiry is bad in law for the reason that the same suffers from huge unexplained delay. That such an enquiry could not have been passed after retirement of the

petitioner from service. He submits that no sufficient explanation has been given by the Disciplinary Authority for not accepting the view given by the Enquiry Officer in his report. Thus, counsel for the petitioner prayed for quashment of the impugned order.

6. Dr. N. K. Shukla, Sr. counsel appearing for respondents 2 & 3 submits that it is a case where the petitioner was subjected to departmental enquiry way back in the year 1999 and that from 1999 to 2012, the petitioner had never challenged the enquiry proceedings at any point of time. He submits that it is well within the power of the Disciplinary Authority to differ with the enquiry report submitted by the Enquiry Officer and also to order for a fresh enquiry. Therefore, the Disciplinary authority has not committed any illegality or infirmity in passing the impugned order dated 21.05.2012. He further submits that subject to the petitioner's co-operation the present petition may be disposed of with a direction that the enquiry be completed as expeditiously as possible so that the Disciplinary Authority can take a final decision on the fresh report of the Enquiry Officer which would be submitted.

7. To this proposition made by the counsel for respondents 2 & 3, counsel for the petitioner submits that the petitioner is ready to extend his co-operation subject to the respondents completing the enquiry within a stipulated period without any further delay.

8. Accordingly, the present writ petition at this juncture is disposed of with a direction that respondent no.3 shall conclude the enquiry in respect of the petitioner on the charge sheet which was issued to him on 18.02.1999 within a period of four months from the date of receipt of certified copy of this order.

9. Taking into consideration the fact that the Departmental Enquiry against the petitioner is pending since 1999 and that the petitioner has retired from service w.e.f. 31.05.11, it is expected that respondent no.3 i.e. the Enquiry Officer shall not further prolong the enquiry any further. Further considering the long lapse of time in the finalization of the departmental enquiry, the enquiry should be conducted giving top priority and the report should be submitted within the stipulated period of four months. The Disciplinary Authority is directed to take a decision on the enquiry report given by the Enquiry Officer within a further period of 30 days.

10. At this juncture, counsel for the petitioner submits that since the petitioner stood retired w.e.f. 31.05.2011 and till date he has not received any amount of retiral dues which he is otherwise entitled for, an appropriate direction may be given to the respondents for release of at least the provisional retirement dues.

11. It is accordingly directed that respondent no.2 shall consider the case of the petitioner for release of the provisional retiral dues within a period of 45 days from the date of presentation of the certified copy of this order.

12. With the aforesaid observations, the present petition stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE