

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1730 of 2017

- Satyanarayan Chouhan S/o Shri Nathuram Chouhan, Aged About 56 Years, Constable No. 514, Police Station Janjgir Champa, District Janjgir Champa, Permanent R/o Katghora, Tahsil Bhata, District Korba (Chhattisgarh) Civil & Revenue District Korba (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. The Superintendent of Police, District Janjgir Champa, Chhattisgarh.

---- Respondents

For Petitioner	Shri Prashant Jaiswal, Senior Advocate with Shri Ashutosh Shukla, Advocate
For Respondent-State	Shri S. P. Kale, Dy. AG

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

12/04/2017

1. Petitioner would call in question the order of removal from service passed by the Superintendent of Police, Janjgir-Champa on 24.03.2017 for the reason that the petitioner has been convicted for offence punishable under Sections 7 and 13 (1) (D) read with Section 13 (2) of the Prevention of Corruption Act, 1988 and has been imposed punishment of RI for two years on each count and fine of Rs.2,000/- on each count by the judgment dated

16.03.2017 passed by the Special Judge (PC Act, 1988), Bilaspur.

2. It is argued by the learned Senior counsel that in Criminal Appeal No.487/2017, the petitioner's application for suspension of sentence and grant of bail has been allowed and he has been released on bail vide order dated 29.03.2017 and the criminal appeal has been admitted for hearing, therefore, since the appeal being continuation of trial, the order of conviction has not attained finality, the Appointing Authority should not have removed the petitioner from services. It is also argued that the order is otherwise violative of principles of natural justice, as the same has been issued without affording any opportunity of hearing to the petitioner. Learned counsel for the petitioner would place reliance on Rule 19 (1) of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (henceforth 'the CCA Rules, 1966').
3. The protection under Article 311 of the Constitution of India that a holder of civil post shall not be removed from service without holding a regular enquiry does not apply when the order of removal from service is a result of conviction of any criminal case, as held by the Supreme Court in the matter of **Union of India and another vs. Tulsiram Patel**¹ and other connected matters.
4. It is also to be noticed that Rule 19 (1) of the CCA Rules, 1966 itself provides that notwithstanding anything contained in Rule 14 to Rule 18, an employee can be removed from service without enquiry on the ground of conduct, which has led to his conviction

¹ (1985) 3 SCC 398

of a criminal charge. The submission that the word “conviction” under Rule 19 (1) would mean the conviction which has attained finality fails to impress this Court, because the language does not admit of such interpretation, it only speaks about conviction simplicitor. In a case where the criminal appeal preferred by the removed government servant is allowed, it always remains open for him to seek reinstatement, but till the conviction remains operative as the same has not been stayed by the Appellate Court, it has its effect under the law.

5. For the foregoing, the impugned order does not suffer from any illegality or infirmity, the writ petition deserves to be and is hereby dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala