

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 182 of 2017**

Satyanarayan Chouhan, son of Shri Nathuram Chouhan, aged about 56 years, Constable No. 514, Police Station Janjgir-Champa, District Janjgir-Champa, Permanent resident of Katghora, Tahsil Bhata, District Korba (CG) Civil & Revenue District Korba

---- Appellant**Versus**

1. State of Chhattisgarh through the Secretary, Department of Home, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur
2. The Superintendent of Police, District Janjgir-Champa (C.G.)

---- Respondents

For Appellant	:	Shri Prashant Jayswal, Senior Advocate with Shri Vivek Mathur, Advocate
For State/Respondents	:	Shri B. Gopa Kumar, Deputy Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri P. Sam Koshy, Judge

Judgment on Board**Per, Thottathil B. Radhakrishnan, Chief Justice****19/06/2017**

1. We have heard the learned Senior Counsel for the Appellant and the learned Deputy Advocate General.
2. The challenge levied through this appeal is against the judgment of the learned Single Judge by which the writ petition filed by the Appellant challenging his removal from service on a ground referable to his conviction for an offence punishable under the Prevention of Corruption Act, 1988 has been dismissed.

3. The learned Senior Counsel points out that by reason of the law laid by the Apex Court in ***Union of India and Another Vs. Tulsiram Patel, (1985) 3 SCC 398***, removal from service cannot be an automatic event and could follow only on a fair and due application of mind even in cases where the removal is made with reference to conviction on a count punishable under the criminal laws.
4. The fact of the matter remains that the conviction of the Appellant is under the provisions of the Prevention of Corruption Act, 1988. Conviction and sentence are in appeal before this Court. The Appellate Court has stayed the sentence but not the conviction. The net effect of situation is that the delinquent is a convict though he is not undergoing the sentence. Under such situation the other legal effects of that conviction and consequences arising out of such conviction would continue to operate.
5. In terms of Article 311 of the Constitution as also the statutory rules, it is well settled that in cases where the conviction is not suspended by the superior criminal Court, such conviction by itself would be sufficient reason to remove a person from service. There are also certain provisions governing certain services where the conviction *ipso facto* may lead to termination from service.
6. In the case in hand, the termination of the Appellant from service has been imposed through an order dated 24.3.2017. We have perused the contents of that order. It unequivocally refers to the factum of the conviction; the counts under which the Appellant has been convicted; and, the reason for the decision to remove him from service as a consequence of the sufferance of such conviction. All the basic requirements are mentioned in that order. Under such circumstances, we are unable to hold that the decision of the employer government directing removal from service of the

Appellant is without stating any reasons or a non-speaking one.

7. Hence, we do not find any jurisdictional error or legal infirmity in the decision of the learned Single Judge refusing to interfere with the Appellant's removal from service. The writ appeal therefore fails.
8. In the result, the writ appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(P. Sam Koshy)
Judge