

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3892 of 2015**

1. Satyabhan Singh Thakur S/o Late Dhan Singh Thakur, Aged About 56 Years Posted As Sub Inspector, Kotwali Jagdalpur, Chowki Maharani Hospital, Jagdalpur, District Bastar, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Director General Of Police, Raipur, Distt. Raipur, Chhattisgarh.
3. Inspector General Of Police, Bastar Division, Jagdalpur, Distt. Bastar (Chhattisgarh)
4. Superintendent Of Police, Bastar, Jagdalpur, District Bastar, Chhattisgarh.

---- Respondent

For Petitioner

Shri C.J.K. Rao, Advocate

For Respondent/State

Shri Adiraj Surana, Dy. Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****27/03/2017**

1. While the petitioner was working as Assistant Sub Inspector (henceforth 'ASI') in District Jagdalpur, a departmental enquiry No.7/2006 was constituted against him containing charges that

while on duty on 16-6-2006 he was talking irrelevant and unnecessary on the wireless set and was, thus, speaking about the availability of force and their movement on the wireless set thereby violating the confidentiality and secrecy. He was also charged for violating Regulation 64 (4) of the Police Regulations (henceforth 'the Regulations') by not following the instructions of the superior police officers while committing the above said act.

2. In a duly constituted departmental enquiry, the Superintendent of Police, Bastar at Jagdalpur passed an order on 29-6-2007 imposing penalty of stoppage of one increment with cumulative effect on the petitioner. Challenging the said order, the petitioner preferred an appeal before the Inspector General of Police, Bastar Range, Jagdalpur, which has been dismissed by order dated 13-5-2015.
3. Placing reliance on the judgment rendered by this Court in **Anil Tiwari v. State of Chhattisgarh & Others**¹, it is contended by Shri C.J.K. Rao, learned counsel appearing for the petitioner, that under Regulations 214, 215, 221 & 222 of the Regulations the power to impose punishment of stoppage of increment with cumulative effect is not conferred on the Superintendent of

¹ 2008 (1) MPHT 54 (CG)

Police, therefore, the order of imposing punishment upon the petitioner is without jurisdiction.

4. Shri Adiraj Surana, learned Dy. Govt. Advocate appearing for the State, *per contra*, would submit that under Regulation 221 (b) of the Regulations, the Superintendent of Police of a district is empowered to impose punishment on ASI & SI, therefore, the order impugned is within the powers of the Superintendent of Police and it does not suffer from any jurisdictional infirmity.
5. In **Anil Tiwari** (supra), this Court, after carefully considering the provisions contained in Regulations 214, 215, 221 & 222, has held that power to impose punishment of withholding of increments of pay including stoppage at an efficiency bar or stagnation allowance as provided in sub-clause (iii) of Regulation 214 of the Regulations is not specific on the Superintendent of Police. Vide Regulation 221 (b), which confers power on the Superintendent of Police to inflict on SI/ASI, the penalties specified in Regulation 214 (i) and (iv) does not include the power to impose penalty to withhold the increment of a SI and an ASI. This Court has further held that there is no mention of withholding of one increment with cumulative effect in Regulation 214. Thus, the same was

supplemented by the Executive Instruction in Memo No.Pu.Mu./23-B/2/915/96, dated 28-5-1996 and in Memo No.Pu.Mu./2/Nama/S-2/392/2000 Bhopal dated 24-4-2000, wherein it is clearly provided that imposition of withholding of one increment with cumulative effect is a major penalty.

6. Even otherwise, the effect and understanding of the power of Superintendent of Police with respect to imposing of major penalty of stoppage of one increment with cumulative effect has been considered by the Director General of Police, Chhattisgarh, Raipur, and thereafter, police instructions No.4 has been issued on 10-10-2008 to the effect that under Regulation 221 the Superintendent of Police is not empowered to impose punishment of stoppage of one increment with cumulative effect, therefore, such punishment should not be imposed by the Superintendent of Police. The said circular refers to the judgment rendered by the High Court of Madhya Pradesh in State of Madhya Pradesh & Others v. Radhika Prasad Dubey.
7. In view of the law laid down by this Court in **Anil Tiwari** (supra) as well as the instructions issued by the DGP, the present petition deserves to be and is hereby allowed. Accordingly, the imposition of punishment of one increment with cumulative

effect in departmental enquiry proceedings No.7/2006 and the order dated 29-6-2007 passed by the Superintendent of Police as well as the appellate order 13-5-2012 concerning the said departmental enquiry alone is quashed.

8. There shall be no order as to costs. Sd/-

Judge
Prashant Kumar Mishra

Gowri