

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4886 of 2010**

Manaharan Lal Sahu, aged about 59 years, S/o Late Meghnath Sahu, Occupation Supervisor, Grade-II, City Division No.1, Torwa, Bilaspur, R/o Lane No.3 Bangalipara, Sarkanda,. Distt. Bilaspur (CG).

---- Petitioner

Versus

1. Chairman, Chhattisgarh State Power Distribution Company Ltd, Danganiyan, Distt. Raipur (CG).
2. Secretary, Deptt. Of Energy And Power State Of Chhattisgarh, D.K.S. Bhawan, Raipur (CG).
3. Managing Director, Chhattisgarh State Power Distribution Company Ltd, Danganiyan, Distt. Raipur (CG).
4. Chief Engineer, Chhattisgarh State Power Distribution Company Ltd, Region-Tifra, Bilaspur (CG).
5. Superintending Engineer, (O/M) Bilaspur Circle, Chhattisgarh State Power Distribution Company Ltd, Region-Tifra, Bilaspur (CG).
6. Additional Superintending Engineer, Operation And Maintenance Division, Chhattisgarh State Power Distribution Company Ltd, Tifra, Bilaspur Cg
7. Additional Executive Engineer, Distribution Chhattisgarh State Power Distribution Company Ltd, Kargi Road Kota, Division-Pendra, Bilaspur (CG).

----Respondents

For Petitioner	:	Shri AN Bhakta and Shri Vivek Bhakta, Advocates.
For Respondents	:	Shri Abhishek Sinha, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/08/2018

1. The challenge in the present writ petition is to the impugned order dated 10.08.2007 (Annexure P/1) whereby the respondents have ordered that for the period of 202 days during which he was unauthorizedly absent from duty be held as dies non. The petitioner has also challenged the order dated 03.10.2008 (Annexure P/2) passed

in appeal preferred against the order of punishment decided on 03.08.2008 by the Chief Engineer whereby his appeal has been rejected.

2. The counsel for the petitioner submits that the entire dispute revolves around 202 days i.e. the period when the petitioner is alleged to have not served with the respondents at Kargi Road Kota. The dispute revolves around an accident wherein during the course of repairing of Transformer an accident occurred and one labour working with the petitioner got electrocuted. It was alleged that the accident occurred because of the negligence and misconduct of the petitioner. So far as negligence part is concerned, the petitioner was subjected to prosecution under Section 304-A IPC by the police and for the misconduct under the service conditions, he was proceeded with a departmental enquiry by the respondent employer. In the criminal case, he has been acquitted. However, in departmental enquiry it has been found that the accident occurred because of the misconduct on the part of the petitioner inasmuch as he did not take necessary precaution/caution in the course of repairing of the Transformer which led to the accident. Thereby, the petitioner has been inflicted with punishment of stoppage of one annual increment without cumulative effect for a period of two years or stagnation allowance whichever is applicable vide order dated 13.07.2004 (Annexure P/6).
3. It is informed by the counsel for the respondents that the said punishment order is under challenge in WPS No.4047 of 2010 and which is pending before this court. While passing the order dated

13.07.2004, after revocation of the suspension order, the petitioner was ordered for reinstatement and was posted at Kargi Road Kota, Sub Division Pendra with immediate effect.

4. According to the petitioner, this order of his being posted to Kargi Road Kota was not intimated to him. Nor was he finally served with an order and even at a later stage he was not given the relieving order. It is also the contention of the petitioner that on 20.07.2004 he had gone to the office at Kota where he was refused joining by the authorities on the ground that the petitioner does not have the relieving order from Bilaspur. Subsequently, the petitioner was again issued with a charge sheet for not resuming his duties at Kota and reply which was submitted by the petitioner was not satisfactory and the department therefore thought of conducting a detailed enquiry. The enquiry was concluded and finally impugned orders dated 10.08.2007 (Annexure P/1) and 03.10.2008 (Annexure P/2) has been passed leading to filing of present writ petition.
5. The contention of the petitioner all along was that he has been repeatedly making efforts with the higher authorities in the department at Kota for joining but was refused on the ground that he has not brought relieving order with him.
6. On the contrary, the counsel for the respondents referred to Annexure R/2 which is a document filed in the petition which was already subjudice at the time of issuing of the order dated 13.07.2004. Through the said application itself the respondents had brought it to the notice of the court as well as to the petitioner that the petitioner's place of

posting has been changed from 13.07.2004 and he was relieved on 16.07.2004. Further it was contended that the application was in the nature of reply to the application for grant of stay which itself means that the petitioner had sought for stay of the effect and operation of the order dated 13.07.2004 which was the order posting him to Kargi Road Kota.

7. The said writ petition i.e. WP No.2893 of 2003 thereafter again was pending before the High Court for another period of about 5 months after which ultimately it was disposed of on 31.01.2005 holding the petition to have become infructuous. During these intervening period of 5 months after the management had brought the relieving order to the notice of the petitioner and to the court, the petitioner does not seem to have taken any steps for ensuring that he has provided joining at Kota. Neither is there any plea in this regard. Moreover, what also has been informed by the counsel for the respondents is that without any relieving order being issued to him, he has assumed his duties at Kota w.e.f. 03.02.2005 which again shows that there was no insistence from the authorities for the relieving order for reporting to duties at Kota.
8. The fact that the petitioner has given his joining on 03.02.2005 would reveal that it was after repeat petition which he had filed i.e. WP No.2893 of 2003, which got disposed of on 31.01.2005. Further, from perusal of record it appears that the petitioner has been litigating against the disciplinary proceedings initiated against him at the first instance from the very beginning and he was well aware of all the development that have taken place in between and was also aware of

the orders which were passed by the respondent management from time to time and never has the petitioner before filing of the present petition ever raised this grievance of not being provided joining at Kota in the absence of any relieving order. Moreover, from the proceedings it reveals that the respondents had taken steps for ensuring that the relieving order or order dated 13.07.2004 is duly served upon the petitioner and in the process a messenger also was sent to the residence of the petitioner and this order was brought to the notice of the family members who had, for some reasons, refused to accept the same and which later was also affixed on the doorsteps of the petitioner's residence.

9. So far as the contention of the petitioner that there is non compliance of the rule position so far as the service of the relieving order is concerned, the same may not be applicable in the instant case for the reason that it is not a case where the petitioner was not aware of the order dated 13.07.2004 which was passed. Rather it is a case where he was aware of his posting and, if not, he was informed about it by the respondents in the litigation which was already pending in the High Court at the first instance itself as is evident from Annexure R/2 which is enclosed along with the return.
10. Given the factual position and for all the aforesaid reasons, this court is of the opinion that admittedly the petitioner was absent from duty for about 202 days and the absence was also without any justified or cogent reasons. Nor has the petitioner been able to give any substantial justification for the same except for the fact that he was not

intimated of the order dated 13.07.2004 which too has been found to be incorrect and stands disproved.

11. Under the circumstances, this court is of the opinion that no strong case is made out. The petition fails and accordingly stands dismissed.

Sd/-

(P. Sam Koshy)
Judge

inder