

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 1765 of 2009**

Krishna Ram Bhist (dead) through legal representative Komal Ram S/o Durangu Ram, Aged about 25 years, R/o Village Jamgaon, Tahsil & District Balod (Chhattisgarh).

---- Petitioner

**Versus**

1. State of Chhattisgarh Through Secretary, Public Works Department, D.K.S. Bhawan, Raipur (Chhattisgarh).
2. Chief Engineer, Public Works Department, Raipur Zone, Raipur (Chhattisgarh).
3. Superintending Engineer, Public Works Department, Durg Circle, Durg (Chhattisgarh).
4. Executive Engineer, Public Works Department, Balod Division Balod, District Durg (Chhattisgarh)

---- Respondents

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|---------------------------|---|------------------------------------------------------|
| For Petitioner            | : | Mr. Hemant Kesharwani, Advocate.                     |
| For Respondents/<br>State | : | Mr. Y.S. Thakur, Dy. A.G. & Mr. R.N. Pushty,<br>G.A. |

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order On Board****07/02/18**

1. Learned counsel for the petitioner submits that this Court by order dated 28-07-2008 directed the State to decide the appeal against the order of termination of the petitioner dated 12-01-2007 in accordance with law.
2. The State Government by order dated 11-11-2008 held that the petitioner is not entitled for pension against which the writ petition has been preferred. Several grounds have been raised in the memo of appeal but

none have been considered.

3. Learned counsel for the petitioner submits that the impugned order is bad in law.

4. On the other hand, learned State counsel would support the impugned order.

5. I have heard learned counsel for the parties and gone through the record with utmost circumspection.

6. A careful perusal of the impugned order would show that number of grounds have been raised by the petitioner before the appellate authority but none of the grounds have been considered on its own merit. The appellate authority dismissed the appeal holding that the petitioner is not entitled for pension.

7. It is correct to say that several grounds were raised by the petitioner to question the order of the disciplinary authority inflicting penalty of stoppage of two annual increments with cumulative effect but none of the grounds were considered by the appellate authority. In fact, in appeal preferred by the petitioner against the order inflicting penalty, the appellate authority was required to consider (a) whether the procedure laid down in these rules have been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of such Constitution of India or in the failure of justice; (b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe, but it has not

been considered and non-speaking and unreasoned order has been passed.

8. In view of above, the impugned order passed by the appellate authority is hereby set aside. The matter is remitted to the appellate authority to consider each and every ground raised by the petitioner in appeal afresh and thereafter to pass a reasoned and speaking order in accordance with law after hearing the petitioner within a period of 2 months from the date of receipt/production of a copy of this order. The petitioner is at liberty to raise additional grounds, if any, supported by the documents which shall be considered by the appellate authority.

9. The writ petition is allowed to the extent indicated hereinabove. No costs.

Sd/-  
**(Sanjay K. Agrawal)**  
Judge