

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 7284 of 2011**

Ajay Kumar Verma S/o Lt. Shri Gaiind Singh Verma Exe Shikccha Karmi Verg
2 Govt. Higher Sec. School Darra Block Gurur Distt. Durg CG ---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through The Secondary, Panchayat and Kalyan Department, Ministry, DKS Bhawan, Raipur (CG)
2. The Chief Executive Officer, Zila Panchayat Durg CG
3. Block Education Officer, Gurur Distt. Durg CG **--Respondents**

For Petitioner	:	Mr. Ajay Shrivastava, Advocate
For State	:	Mr. Majid Ali, Dy. G.A.
For Respondent No.2	:	Mr. Pawan Shrivastava, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****12.04.2018**

Heard.

1. Learned counsel for the petitioner would submit that the issue raised in this petition is squarely covered by an order passed by this Court on 15.07.2015 in WPS No.1846 of 2011 (Prakash Chand Soni Vs. State of Chhattisgarh and others), wherein, it has been held that a permanent employee could not be dismissed from service without holding a departmental enquiry under Rule 7 of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 (for short 'the Rules of 1999'). He would submit that the petitioner was dismissed from service without issuing any charge-sheet, without holding a departmental enquiry and without proof of guilt.

2. Learned counsel for respondent No.2 would submit that the petitioner has remained absent unauthorizedly for a very long period, therefore, he dismissed from service.

3. In the aforesaid case of **Prakash Chand Soni** (supra), it was held as below :

“3. The short issue arisen for determination is - whether services of a Panchayat Secretary can be dispensed with or terminated without conducting any enquiry as envisaged under Rule 7 of the C.G. Panchayat Service (Discipline and Appeal) Rules, 1999 (in short “the Rules, 1999”)?

(4) Admittedly, on certain allegations, an enquiry was conducted

against the petitioner and eventually, an enquiry report was submitted vide Annexure R/4 and thereafter, show cause notice was issued to him on 28.04.2008 vide Annexure R/3, therefore, before removing him the principles of natural justice have been complied with. However, at the same time, it is to be seen that a Division Bench of this Court in the matter of **Rooplal Nayak vs. State of Chhattisgarh and others, 2006(4) M.P.H.T. 99 (C.G.)** has held that any of the major penalty prescribed under Rule 5(b) (iv) of the Rules, 1999 cannot be imposed on a member of Panchayat service to whom the said Rules are applicable without conducting regular Departmental Enquiry as envisaged under 7 of the Rules, 1999.

(5) In the case at hand, an enquiry officer was appointed, who conducted some sort of enquiry and submitted an enquiry report, however, that runs short of a departmental enquiry as contemplated under Rule 7. The said provisions uses the words 'formal inquiry' with further stipulation that when an order for 'formal enquiry' has been made, the disciplinary authority shall frame Definite charges, communicate the same to the delinquent along with the statement of allegations, requiring him to submit within the specified time a written statement of defence and also to state whether he desires to be heard in person. Thereafter, the defence is required to be permitted to inspect and take extracts from the records, which can be refused for reasons to be recorded in writing. On submission of reply by the delinquent, the disciplinary authority may himself enquire or appoint an enquiry officer. Appointment of Presenting Officer and seeking assistance of some other officers by the delinquent is also contemplated therein. The enquiry officer is also enabled to record evidence and thereafter, at the conclusion of the enquiry, the enquiry officer is supposed to prepare enquiry report, the copy of which is required to be furnished to the delinquent. Thus, the 'formal inquiry' envisaged under the Rules is akin to the procedure prescribed for a regular enquiry under Rule 14 of the C.G. Civil Services (Classification, Control and Appeal) Rules, 1966."

4. Therefore, the impugned order is set aside with liberty to respondents to take disciplinary action in accordance with the provision contained in Rule 7 of the Rules of 1999. The issue of backwages will be examined by the authority.

5. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge