

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.5923 of 2009**

Narendra Shrivastava, S/o Shri B.L. Shrivastava, aged 50 yrs.,
Assistant Grade I, Directorate of Higher Education, Raipur

---- Petitioner

Versus

1. State of Chhattisgarh Through the Secretary, Higher Education, D.K.S. Bhavan, Raipur
2. Commissioner, Higher Education, Govt. Science College Campus, Raipur

---- Respondents

For Petitioner	:	Mr.Amrito Das, Advocate
For Respondents	:	Mr.Shashank Thakur, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

3/1/2018

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India against the order of disciplinary authority dated 9.9.2009 (Annexure P/1) by which penalty of stoppage of two annual increments with cumulative effect has been passed and also directed for recovery of ₹ 2,01,402/- against the petitioner.
2. Learned counsel for the petitioner would submit that charge No.2 and 3 were not found proved by the enquiry officer and only charge No.1 was partly found proved and charge No.4 was found proved, but the disciplinary authority has found that charge No.2 and 3 were found proved and even that charge No.1 and 4 were also found to be proved and passed the impugned order, which is disproportionate to the alleged misconduct. Even the disciplinary authority has directed for

calling of supplementary report from enquiry officer, but without receipt of said report, the impugned order of penalty has been passed.

- 3.** On the other hand, learned State Counsel would support the impugned order.
- 4.** I have heard learned counsel for the parties, considered their rival submissions made herein-above and also gone through the records with utmost circumspection.
- 5.** It is correct to say that charge No.2 and 3 were not found proved as per conclusion recorded by the enquiry officer in Annexure P/4, but it has been held to be proved by the disciplinary authority in the impugned order. Charge No.1 was found to be partly proved and charge No.4 relates to non-retaining of copy of reply. Apart from this, the disciplinary authority has even not assigned any reasons for disagreement with the reasons recorded by the enquiry officer.
- 6.** Since the order is based on misreading of findings of the enquiry officer and no reasons have been assigned for disagreement with the findings and reasons recorded by the enquiry officer, the impugned order dated 9.9.2009 (Annexure P/1) is set aside. The matter is remitted to the disciplinary authority to consider afresh on the basis of report of the enquiry officer and to pass a reasoned and speaking order as early as possible preferably within a period of three

months from the date of receipt/production of a copy of this order strictly in accordance with law after hearing the parties.

- 7.** The writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-