

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2053 of 2018**

Manish Choubey S/o Shri Kamal Narayan Choubey Aged About 28 Years R/o Lal Bahadur Shastri Ward, Patpar Road, Bhatapara, Police Station And Tahsil Bhatapara District Baloda Bazar Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Secretary Department Of Home/ Police Secretariat, Mahanadi Bhawa, Police Station And Post Rakhi New Raipur, District Raipur Chhattisgarh.
2. Director General Of Police (DGP) Police Headquarters (PHQ) , Near Mahanadi Bhawan Mantralaya Police Station And Post Rakhi New Raipur District Raipur Chhattisgarh.
3. Inspector General Of Police (IGP) Office Of Inspector General Of Police, Shanker Nagar Raipur, District Raipur Chhattisgarh.
4. Superintendent Of Police (SP) Office Of The Superintendent Of Police Baloda Bazar, District Balodabazar Bazar Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate
For State	:	Mr. Shashank Thakur. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/03/2018**

1. The challenge in the present writ petition is the order passed by the department, whereby the petitioner has been inflicted with the punishment of stoppage of one increment with cumulative effect. The said order of punishment has further been affirmed by the Appellate authority vide its order dated 27.01.2018 passed by the respondent No.2-the Director General of Police.
2. The brief fact of the case is that the petitioner was working with the respondents as an Assistant Sub Inspector (Ministerial). One of the police personnel was inflicted with certain punishment of stoppage

of increment with non-cumulative effect and the said stoppage of increment was to be given effect in the month of July, 2014.

3. The allegation is that the present petitioner and head clerk of the establishment in the police department has not implemented the said order of punishment in the salary payable to the said delinquent for the month of July, 2014. The petitioner's stand all along was that the petitioner was not responsible for the implementation of the order of punishment of stoppage of increment in respect of the delinquent constable Anil Lal. It was also the contention that the petitioner was not posted at the relevant department during the relevant point of time and that the petitioner was never timely intimated in respect of the order of punishment to be implemented in the case of constable Anil Lal.
4. The respondents initially found the petitioner guilty of the said misconduct and imposed a punishment of stoppage of one increment with cumulative effect, so also the head clerk was punished with the punishment of demotion for a period three years.
5. The petitioner in turn immediately preferred a departmental appeal before the respondent No.2 on 26.04.2016 itself and the said appeal stood decided vide order dated 27.01.2018 (Annex.P/4). The counsel for the petitioner submits that the order of Appellate authority is not a speaking order nor is the order of Appellate authority taking into consideration the factual matrix of the case. He submits that the Appellate authority has not considered many of the grounds that the petitioner has raised in his appeal and the finding given by the Appellate authority also seems to be self contradictory

to the allegations and misconduct alleged against the present petitioner.

6. A perusal of the charge sheet dated 05.08.2015 (Annex.P/1) it reflects that the allegations against the present petitioner as is reflected from the second paragraph of the charge sheet is that the head clerk had not intimated the petitioner timely in respect of the implementation of the punishment order issued against constable Anil Lal. This allegation itself shows that the petitioner was not intimated in respect of the punishment given to Shri Anil Lal. Thus there appears to be a discrepancy in respect of the duty which the petitioner had to undertake and the allegation which has been alleged and the finding which is reflected in the order of the Appellate authority.
7. Given the facts and circumstances of the case this Court is of the opinion that ends of justice would meet if the order of Appellate authority at this juncture is set-aside and the matter is remitted back to the Appellate authority to reconsider the entire appeal of the petitioner afresh taking into consideration the nature of allegation which is reflected in the charge sheet dated 05.08.2015 (Annex.P/1).
8. Needless to mention that the petitioner also if he wants can supplement any additional grounds if any by way of a supplementary appeal to be preferred before the respondent No.2 within a period of 10 days from the date of receipt of the certified copy of this order.

9. It is expected that the respondent No.2 in turn shall decide the appeal on merit by a reasoned speaking order considering all the grounds raised by the petitioner as is also otherwise required under Rule 27 of the Civil Services (Classification, Control and Appeal) Rules, 1996.
10. It is expected that the respondent No.2 shall decide the appeal of the petitioner expeditiously preferably within a period of 60 days from the date of receipt of the certified copy of this order.

Sd/-
(P. Sam Koshy)
Judge

Ved