

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition No.1749 of 2003

O.P. Rajak, S/o Late Shri Rajak, aged about 49 years, Occupation Service, Asstt. Engineer (LTMT), Chhattisgarh State Electricity Board (Now Chhattisgarh State Power Distribution Company Ltd.), Bhilai, R/o L-398, Padmanabhpur, Distt. Durg (C.G.)

---- Petitioner

Versus

1. Chhattisgarh State Power Distribution Co. Ltd., Through Managing Director, Office at Danganiya, Raipur, P.S. D.D. Nagar, Tah. & Distt. Raipur, PIN 492001
2. Chief Engineer, Chhattisgarh State Power Distribution Co. Ltd., Danganiya, Raipur, P.S. D.D. Nagar, Tah. & Distt. Raipur, PIN 492001

---- Respondents

For Petitioner:	Mr. Amiyakant Tiwari, Advocate.
For Respondents:	Mr. Vinod Deshmukh, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

12/02/2018

1. Heard.
2. The petitioner at the relevant point of time was working on the post of Assistant Engineer. He alleged to have made an application for grant of higher pay scale. It is the case of the Electricity Board that the application was not made and he made false claim leading to initiation of enquiry and leading to passing of impugned order dated 10-3-2003 directing withholding of two annual increments with non-cumulative effect against which the petitioner preferred an appeal before the appellate authority and thereafter preferred this writ petition claiming higher pay scale as well as setting aside the order passed by the competent authority.

3. Learned counsel for the petitioner would vehemently submit that the impugned order is unsustainable and bad in law. The petitioner has made application for grant of higher pay scale and instead of granting higher pay scale, he was punished with the aforesaid order which deserves to be set aside.
4. Learned counsel for the respondents, on instructions, would submit that appeal filed by the petitioner is pending consideration.
5. No employee is entitled to attack one impugned order by filing departmental appeal as well as by filing writ petition, such a course is clearly impermissible in law. In fact, the writ petition is not maintainable, but considering the fact that respondent No.1 has also not decided the appeal, respondents No.1 and 2 – the competent appellate authority is directed to consider and decide the appeal of the petitioner so preferred within two months from the date of receipt of a copy of this order, after hearing both the parties and take a final decision in this regard. It is made clear that the Court has not expressed any opinion on merits.
6. The writ petition stands finally disposed of with the aforesaid direction. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge