

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION NO. 1704 OF 2003**

Vikash Kumar Pandey, S/o Shri Santosh Pandey, aged 28 years, R/o Village & Post Kashiyargaon, District Rewa (M.P.)

... Petitioner**versus**

1. State of Chhattisgarh, through its Secretary, Department of Panchayat & Social Welfare, Mantralaya, D.K.S. Bhawan, Raipur (CG)
2. Director, Department of Panchayat & Social Welfare, Mantralaya, D.K.S. Bhawan, Raipur (CG)
3. Deputy Director, Department of Panchayat & Social Welfare, Surguja, Ambikapur.
4. Gyanodaya Association Surguja, through its Secretary, beside Co-District Surguja.
5. Secretary, Gyanodaya Association Surguja, beside Co-operative Bank, Bishrampur, District Surguja.

... Respondents

For Petitioner	:	Mr. Gagan Tiwari, Advocate.
For Respondents 1 to 3	:	Mr. Arvind Dubey, Panel Lawyer.
For Respondents 4 & 5	:	Mr. Vinay Pandey, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****13/09/2018**

1. Challenge in the present writ petition is to Annexure P-8, 30.4.2003, the order of termination.
2. The petitioner was working as a Teacher under the respondents no. 4 and 5. Respondents No. 4 and 5 are an added institution which impart education to deaf and dumb children.
3. The contention of the learned counsel for the petitioner is that the petitioner was appointed on 26.7.2000 as a regular employee under the respondents but his services have been terminated vide the impugned order dated 30.4.2003 without any enquiry whatsoever. He further submits that the impugned order is bad in law for the reason that the same on its plain reading itself would show that it is a stigmatic order and has been passed putting serious allegation and stigma against the petitioner's conduct. He next submits that before the issuance of the impugned order the petitioner was served with two show cause notices; first on 14.9.2002 and second on

12.4.2003, Annexure P-4 and Annexure P-6, respectively, to which the petitioner has filed detailed reply vide Annexure P-5 and Annexure P-7, dated 14.9.2002 and 24.4.2003, respectively. He also submits that in his reply there was a categorical denial made by the petitioner against all the allegations levelled against him and therefore without conducting any enquiry even a preliminary enquiry, his services could not have been terminated.

4. Learned counsel appearing for the contesting respondents no. 4 and 5 on the contrary submits that the plain reading of the impugned order itself would clearly reflect that there was a large scale of serious allegation against the petitioner and considering the institution which is imparting the education to deaf and dumb the petitioner ought to have conducted himself in a better manner and that continuing of the petitioner with the respondents was not only against the interest of the institution but also was detrimental to the students studying in the said institution particularly taking into consideration the fact that they are physically challenged students, and therefore the impugned order was justified. He further submits that even otherwise the petitioner was not a regular Teacher which would require a departmental enquiry before termination and since he was not a regular Teacher, rather, was a temporary Teacher, his services could be terminated without enquiry.

5. From the plain reading of the two show cause notices as also the termination order, it clearly reflects that there have been serious allegations against the petitioner which have been taken as the basis for removing him from services. The petitioner has made candid and categorical denial to each of the allegations specifically replying to the two show cause notices. Given the aforesaid facts, the respondent authorities were incumbent to have got the allegations verified or at least the impugned order of

termination should have reflected as to what was the basis for taking the said decision. It is not in dispute that there was no enquiry conducted against the petitioner. It also does not reflect of any preliminary enquiry also having been conducted by the respondents. So far as the misconduct alleged against the petitioner is concerned, those are all vague and not specific allegations in respect of irregularities as also in respect of the students who according to the respondents have been physically punished by the petitioner.

6. Given the aforesaid facts and circumstances, particularly, there being no material available on record to ascertain as to the basis on which the impugned order of termination has been passed particularly in the absence of either a preliminary enquiry or a departmental enquiry, the order of termination is not sustainable and the same deserves to be and is accordingly set aside.

7. The fact that the petitioner admittedly has been out of employment for these 15 years, applying the principles of "no work no pay", he would not be entitled for the monetary benefits for the intervening period. However, he would be entitled for all consequential benefits post retirement.

8. The writ petition stands allowed and disposed of accordingly.

**Sd/-
(P. Sam Koshy)
Judge**