

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3614 of 2018**

Pradeep Singh Parihar S/o Shri Lalan Singh Parihar, Aged About 32 Years, Constable (Driver) Batch No. 811, 17th Special Arms Battalion (Bha./R) Chhattisgarh Arms Force, Kabirdham, District Kabirdham Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, Department Of Home Affair, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh.
2. Commandant, 17th Special Arms Battalion (Bha./R) Chhattisgarh Arms Force, Kabirdham, District Kabirdham Chhattisgarh.
3. Commandant, 17th Special Arms Battalion (Bha./R.) Chhattisgarh Arms Force, (In The Capacity Of Disciplinary Officer In Departmental Enquiry No. Nil. Being On Against The Petitioner) Kabirdham, District Kabirdham Chhattisgarh.
4. Assistant Commandant, 17th Special Arms Battalion (Bha./R.) Chhattisgarh Shashtra Bal, (In The Capacity Of Enquiry Officer In Departmental Enquiry No. Nil. Being On Against The Petitioner), Kabirdham, District Kabirdham Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Mahendra Dubey, Advocate
For State	:	Mr. Adhiraj Surana, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****11/05/2018**

1. The challenge in the present writ petition is to the petitioner being subjected to the disciplinary proceedings on an alleged complaint made at the behest of the wife of the present petitioner.
2. The contention of the counsel for the petitioner is that it is a case where the dispute between the petitioner and his wife is already sub-judice before the Family Court, Rewa. According to the petitioner, there are two proceedings pending before the Family Court, one for the declaration of marriage to be null and void filed by the present

petitioner and the other being the application for restitution of conjugal rights filed by the wife. He submits that pending these disputes before the Family Court, the authorities concerned should not have initiated disciplinary action against the petitioner, as the evidence which the petitioner may lead before the inquiry officer can have an adverse bearing on the proceedings before the Family Court. He further submits that the charge-sheet and charges leveled also are vague, in as much as the authorities concerned have not disclosed as to the nature of misconduct under the service rules, which has been attracted for initiation of the disciplinary proceedings or for placing the petitioner under suspension. He further submits that the authorities concerned have also not conducted any preliminary inquiry against the petitioner before placing him under suspension or before issuance of the charge sheet. Thus for all these reasons, the writ petition deserves to be allowed and the proceedings and the charge sheet have to be set-aside/quashed.

3. Considering the contentions put forth and the considering the documents enclosed with the writ petition, it appears that petitioner was placed under suspension on the basis of the wife of the petitioner appearing before the competent authority and leveling allegations against the petitioner in respect of his ill-treatment, torture and subjecting her to cruelty. That on receipt of the said complaint, the authorities concerned have placed the services of the petitioner under suspension, contemplating departmental enquiry. Later on a charge sheet also has been issued and an Inquiry Officer and Presenting Officer have also been appointed to inquire into the matter.

4. Given the nature of the allegations, if ultimately it stands proved, it would definitely fall within the purview of a conduct, which is unbecoming of a government employee, much less a uniformed employee.
5. So far as the contentions and submissions, which the petitioner has raised in the present writ petition, he would be at liberty to raise all these facts before the Inquiry Officer, who shall scrutinize the documents and contentions of the petitioner and then thereafter reach to a conclusion.
6. This Court in exercise of its power of judicial review under Article 226 may not substitute itself as a Disciplinary authority and go into the veracity of the charges and the allegations leveled. These are facts, which have to be thrashed out before the Inquiry Officer himself. Reserving the right of the petitioner to approach before the authority by leading all documents and evidences in his support, the present writ petition in its present form is disposed of at this juncture.
7. Needless to mention that any representation/objection, which has been raised by the petitioner after placing him under suspension to the higher authorities may also be considered and decided by the authorities concerned objectively, the authority would also look into the aspect of the necessity of the continuing with the suspension.
8. The petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge