

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4268 of 2018**

Devcharan Sahu S/o Late Moniram Sahu, Aged About 58 Years R/o Village And Post Korar, Tahsil Bhanupratappur, District Uttar Bastar, Kanker, Chhattisgarh.

---- Petitioner**Versus**

1. The State Of Chhattisgarh Through Secretary, School Education Department, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. The Collector, District Uttar Baster, Kanker, Chhattisgarh.
3. Chief Executive Officer, Zila Panchayat, District Uttar Baster Kanker, Chhattisgarh.
4. Chief Executive Officer, Janpad Panchayat Antagarh, District Uttar Bastar, Kanker, Chhattisgarh.
5. Chief Executive Officer, Janpad Panchayat Durgukondal, District U. B. Kanker, Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Parag Kotecha, Advocate
For State	:	Mr. Arvind Dubey, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/08/2018**

1. The prayer sought for by the petitioner in this writ petition is for a direction to the respondents to permit the petitioner to perform his duties as an Assistant Development Extension Officer, Janpad Panchayat, Durgukondal and also to grant all arrears of salary with interest.
2. The facts leading to the present case is that the petitioner in the course of his employment as an Assistant Development Extension Officer is alleged to have committed serious misconduct, for which the petitioner was prosecuted in a criminal case for the offence under Sections 7, 13(1)(d) & 13(2) of the Prevention of Corruption Act. The petitioner was also subjected to disciplinary proceedings for the said misconduct separately.

3. In the departmental enquiry, the petitioner was inflicted with a major punishment of stoppage of one increment with cumulative effect and an order so far as the treatment of the period of suspension is concerned. However, so far as the criminal case which was initiated against the petitioner, the petitioner has been found guilty of the said offence and he stands convicted vide judgment dated 14.09.2017 and he has been sentenced to undergo rigorous imprisonment for 7 years. Though the petitioner has subsequently been released on bail on the sentence being suspended vide order dated 08.12.2017, passed in Criminal Appeal No. 1541/2017.
4. According to the petitioner, from the date of conviction the respondents have not granted joining to the petitioner inspite of the fact that he has subsequently been released on bail by the High Court. According to the petitioner, since there is no formal order of termination, it cannot be presumed that the services of the petitioner stands terminated and therefore he is entitled for all consequential benefits.
5. From the aforesaid given facts and circumstances of the case, what culls out is that undisputedly as on date, the petitioner stands convicted in a criminal case under the Prevention of Corruption Act and has been sentenced to undergo rigorous imprisonment for 7 years. Unless the said order of conviction is set-aside, the petitioner would always remain a convict in a criminal case and this conviction itself would be a disqualification for holding government employment.
6. Though the petitioner may have been granted bail by the High Court, but that is only on account of the sentence part being

suspended, the conviction part has not been suspended by the High Court and the conviction would sustain as long as it is not set-aside by the Appellate Court in an Appeal.

7. Thus in the given facts, by virtue of his being a convict, the petitioner may not be entitled for an employment at this juncture. Reserving his right to claim for the same subject to the outcome of the Criminal Appeal.
8. The writ petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved