

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4082 of 2018

Suresh Kumar Gupta S/o Late M. L. Gupta, Aged About 54 Years, Occupation – Service, Presently Posted As Assistant Grade - II (Senior Account Clerk) In The Office Of Executive Engineer, Public Work Department, Division- 1, Bilaspur, Chhattisgarh. R/o Near Shiv Mandir Kududand, Bilaspur, District - Bilaspur, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Public Works Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District - Raipur, Chhattisgarh.
2. Engineer- In- Chief, Public Works Department, North Block, Sector- 19, Nirman Bhawan, Naya Raipur, District- Raipur, Chhattisgarh.
3. Chief Engineer, Public Works Department, Bilaspur, Circle, Bilaspur, Chhattisgarh.
4. Superintendent Engineer, Public Works Department, Bilaspur, Division, Bilaspur, Chhattisgarh.
5. Executive Engineer, Public Works Department, Division-1, Bilaspur, Chhattisgarh.

---Respondents

For petitioner	:	Shri Malay Shrivastava, Advocate.
For State	:	Shri Syed Majid Ali, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/06/2018

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 02/06/2018 which was served upon the petitioner on 05/06/2018 whereby the services of the petitioner has been placed under suspension.

2. Perusal of record would show that, the order of suspension appears to have been issued under Rule 9 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966.
3. Rule 23 of the said rules specifically envisages a provision for appeal and any order passed under Rule 9 also is an appealable order under Rule 23.
4. In the instant case, the petitioner does not appear to have been preferred an appeal, but have rushed to the High Court by filing the present Writ Petition alleging malafides and also challenging the order of suspension on the ground of it being violative of principles of natural justice.
5. Perusal of documents enclosed along with the Writ Petition would reveal that, there were two orders passed on 02/06/2018. One was placing the petitioner under suspension and the other was that of the charge which the petitioner was discharging being taken from the petitioner and handed over to one Smt. Sangita Dewalwar, Assistant Grade-2. The petitioner also substantially holds the post of Assistant Grade-2.
6. Perusal of the two orders would reveal that, there was some enquiry/investigation which was conducted in respect of the misappropriation/irregularities in the records and it was also found that the petitioner was prima-facie negligent in duties which was assigned to him and he was also prima-facie involved in the irregularities.
7. Given the aforesaid reasons for placing the petitioner under suspension, this Court is of the opinion that the ground of challenge which the petitioner

has raised of, the order of suspension not contemplating departmental enquiry may not be sustainable at this stage as it is too early at this stage to hold that the respondents have not contemplated any disciplinary proceedings. That only because the order of suspension does not reflect contemplation of departmental enquiry cannot by itself be inferred that the petitioner would not be proceeded departmentally particularly when there are allegations made in the order of suspension itself.

8. As regards grant of opportunity of hearing is concerned, the same also would not be sustainable for the reason that it was only an in-house enquiry which has been conducted by the department. It is only in a departmental enquiry where there is a necessity of opportunity of hearing to be provided.

9. As regard the third ground of the competency of the officer who has issued an order of suspension is concerned, Rule 9 specifically envisages a clause wherein an employee can be placed under suspension even by an officer below the rank of appointing officer, but with a rider that the same has to be intimated to the appointing officer. The order of suspension show that an intimation in respect of suspension order has been sent to the immediate higher authorities in the department.

10. As such, the said ground also would not be sustainable to assail the order of suspension in the present case.

11. Given the aforesaid facts and circumstances of the case, this Court does not find any strong case made out by the counsel for the petitioner

calling for an interference with the order of suspension and the same deserve to be and is accordingly rejected.

12. Needless to mention that our reluctance in entertaining the Writ Petition would not preclude the petitioner from availing the statutory remedy available to the petitioner under the Rules.

13. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit