

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 652 of 2018**

- Dr. P.L. Badolkar @ P.L. Bodalkar S/o Late Nand Lal Badolkar @ Nand Lal Bodalkar Aged About 57 Years Qualification- MBBS Degree, Presently Working as Medical Officer, Primary Health Center Gharghora, District Raigarh, Chhattisgarh. R/o Primary Health Center Gharghora, District : Raigarh, Chhattisgarh

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, Ministry of Health And Family Welfare Mantralaya, DKS Bhawan (Now Mahanadi Bhawan Raipur, (Now New Raipur), District : Raipur, Chhattisgarh
2. Chief Medical Officer Raigarh, District : Raigarh, Chhattisgarh
3. Collector Raigarh, District : Raigarh, Chhattisgarh
4. District Departmental Enquiry Officer Collectorate Raigarh, District : Raigarh, Chhattisgarh
5. Commissioner Bilaspur, District : Bilaspur, Chhattisgarh

---- Respondents

For Appellant	:	Shri A. N. Bhakta, Advocate
For Respondents/State	:	Shri Gary Mukhopadhyay, Government Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Sanjay Agrawal, Judge****Order on Board****Per, Ajay Kumar Tripathi, Chief Justice****30.08.2018**

1. Heard counsel for the Appellant and counsel for the State.
2. Writ application was dismissed by the learned Single Judge on 28.06.2018 refusing to interfere with the order of punishment dated 03.10.2005, where punishment of stoppage of two increments with cumulative effect was ordered. He further wanted quashing of Annexure P-2 dated 15.09.2005 which is said to be communication made to the petitioner.
3. Before the learned Single Judge two arguments were made. One that the disciplinary authority could not delegate the power of holding an enquiry to a

subordinate and that he was not given opportunity of hearing by the Public Service Commission when consultation was made.

4. Learned Single Judge had this to say with regard to the first contention :

“3. This contention of the petitioner that the disciplinary proceeding cannot be initiated by the officer other than the disciplinary authority or subordinate to the disciplinary authority is not sustainable. The Supreme Court in the case of **Inspector General of Police and another Vs. Thavasiappan** reported in **(1996) 2 SCC 145** has held that there is nothing in law which inhibits the authority subordinate to the appointing authority to initiate disciplinary proceeding for issuance of charge sheet. It is also not necessary that the charge should be framed by the authority competent to award punishment. A similar view was taken by the Hon'ble Supreme Court in AIR 1998 SC 2210 (Steel Authority of India & another v. Dr. R. K. Diwakar & Others) and AIR 2003 SC 4119 (State of U.P. & another v. Chandrapal Singh & another). In (1995) 1 SCC 332 (Transport Commissioner, Madras 5 v. A. Radha Krishna Moorthy) again the Supreme Court held that “Insofar as initiation of enquiry by an officer subordinate to the appointing authority is concerned, it is well settled now that it is unobjectionable. The initiation can be by an officer subordinate to the appointing authority. Only the dismissal/removal shall not be by an authority subordinate to the appoint authority.” Given the said judgments, the ground raised by the petitioner is not sustainable.”

5. So far as opportunity of hearing in relation to consultation with the Public Service Commission is concerned, the consultation is between the State and the Public Service Commission for having an independent opinion and view on the material and evidence which has come during the course of enquiry and the contemplated punishment. That is no stage where principles of natural justice is required to be followed. It is also argued that the decision of Public Service Commission was not

communicated to the petitioner which could have given him opportunity to make his submission. The consultation between the State and Public Service Commission are issues between the two authorities. Opportunity of hearing is not required to be given to an employee in the said process.

6. There is no infirmity in the order of the learned Single Judge. The appeal is dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Sanjay Agrawal)
Judge