

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.6122 OF 2018**

Arun Kumar Pathak S/o Shri Ramesh Prasad Pathak Aged About 43 Years Working As Laboratory Technician, Saskiya Naveen Mahavidilya, Tapkara, District Jashpur, Chhattisgarh, R/o Wenkat Nagar Road, Pendraroad, District Bilaspur Chhattisgarh.

...Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Department Of Higher Education, Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisgarh.
2. Principal Government Pandit Madhavrao Sapre College, Pendraroad, District Bilaspur Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Vinay Pandey, Advocate.
For Respondent-State	:	Shri RK Gupta, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19.09.2018

1. The challenge in this petition is to the (Annexure P/1) dated 31.07.2017 whereby the petitioner has been inflicted with major punishment of stoppage of two annual increments with cumulative effect.
2. The petitioner submits that till date the petitioner has not been officially communicated with the said order of punishment and that, it is only when he came to know that his two annual increments have been withheld by the department, he sought information under Right to Information Act and only thereafter he was informed about the impugned order.
3. It is the categorical contention of the petitioner that the impugned order has been passed behind the back of the petitioner inasmuch as no show cause notice or any explanation has been sought for from the petitioner. He was never informed about any of the misconduct before inflicting him with the said punishment. Likewise, it is also the contention of the petitioner that the effect of the impugned order is a major punishment and under such circumstances it was incumbent upon the respondent authorities to have complied with the conditions stipulated in Rule 14 of

the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966, which again in the instant case has been blatantly violated.

4. The petitioner further submits that the impugned order reflects that it has been passed only on perusal of records pertaining to the petitioner which apparently appears to be an arbitrary action on the part of the respondents.
5. This facts are not disputed by the State counsel on defence.
6. It is by now well settled principles of law and it does not need much deliberation as to whether the major punishment could have been inflicted upon an employee without even issuing of show cause notice or without calling for an explanation and also without conducting any sort of enquiry either preliminary or departmental.
7. This view of the court stands fortified from the judgment of Supreme Court in case of Kulwant Singh Gill Vs. State of Punjab, 1991 Supp. (1) SCC 504 and in the judgment of Patna High Court in case of Ashwani Kumar Verma Vs. The State of Bihar & Ors. 2017 SCC Online Pat 2403.
8. Subject to verification, this court is of the opinion that the impugned order in the aforesaid factual matrix of the case may not be sustainable and the same deserves to be and is accordingly set aside.
9. Accordingly, reserving the right of the respondents-State to proceed against the petitioner departmentally for any misconduct that he has committed in accordance with rules governing the service conditions, the writ petition stands allowed. The impugned order dated 31.07.2017 (Annexure P/1) stands quashed with consequence to follow.

Sd/-
(P. Sam Koshy
Judge