

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.6751 OF 2018**

Kunjbihari Dadsena S/o. Late Shri Dhansai Dadsena, Aged About 57 Years
R/o. Village Khurspar, Post Sirko, Tahsil Pithora, Police Station Basnai,
District Mahasamund Chhattisgarh.

...Petitioner(s)

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Police Station And Post Rakhi, Atal Nagar, Raipur, District Raipur Chhattisgarh.
2. Collector, Office Of Collectorate (Land Record), Mahasamund, District Mahasamund Chhattisgarh.
3. Sub Divisional Officer (Revenue), Office Of S.D.O., Saraipali, District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh
4. Tahsildar, Tahsil Office Saraipali, District Mahasamund Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Abhishek Pandey and Shri Santosh Kumar Pandey, Advocates.
For Respondent-State	:	Shri SP Kale, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26.10.2018

1. The challenge in this petition is to the charge sheet which was issued to the petitioner through the Tehsildar, Saraipali, vide letter dated 07.06.2018 (Annexure P/3).
2. The substantial grievance of the petitioner is that the charge sheet firstly is not issued by the competent authority, secondly the same has not been issued in accordance with Form under the service rules and further the charge sheet is bad in law to the extent that it is not supported with list of witnesses and list of documents in respect of the charges. Further grievance of the petitioner is that though the petitioner has been placed under suspension vide order dated 20.03.2018 till date he has not been granted subsistence allowance and that since the departmental enquiry has not been concluded for more than six months and the delay is not on account of any fault on the part of the petitioner, he would be entitled for the enhanced subsistence allowance as per the service rules.

3. On the previous day on 10.10.2018 this court had directed the State to seek instructions whether the charge sheet infact was not supported with list of witnesses and list of documents.
4. The State counsel today brought before the court document showing that the charge sheet infact was completed and it was supported with list of witnesses and documents and which according to the State counsel has also furnished to the petitioner though counsel for the petitioner denies having received those documents and list of witnesses.
5. Be that as it may, since the respondents counsel has brought the record before the court which would show the charge sheet supported with relevant list of witnesses and list of documents, the challenge to the charge sheet by the petitioner stands redressed. Now the issue left is whether the petitioner is entitled for subsistence allowance and also the enhanced subsistence allowance.
6. Indisputably, the rules provide for granting subsistence allowance during the period of suspension. There is no reason whatsoever why the petitioner should not be entitled for the subsistence allowance during the said period. Further he would also be entitled for enhanced subsistence allowance, provided the delay in the departmental enquiry was not on account of any fault on the part of petitioner.
7. Given the aforesaid facts, let the respondent No.2 take a decision at the earliest within a period of 45 days from today so far as releasing of subsistence allowance to the petitioner is concerned from the date he has been placed under suspension. The respondent No.2 shall also consider whether the petitioner would be entitled for enhanced subsistence allowance beyond the period of six months from the date of issuance of subsistence allowance in accordance with rules.
8. With the aforesaid, the writ petition stands disposed of. Sd/-

(P. Sam Koshy
Judge