

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4047 of 2012**

Ashok Kumar Sahu S/o Lt. Shyam Lal Sahu Aged About 51 Years
Assistant Revenue Inspector, Municipal Corporation Rajnandgaon
Distt. Rajnandgaon, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh And Ors. S/o Through Secretary Urban Development Department, D.K.S. Bhawan, Mantralaya Raipur Distt. Raipur Chhattisgarh.
2. Municipal Corporation Rajnandgaon Through Commissioner Distt. Rajnandgaon, Chhattisgarh.
3. The Revenue Officer Municipal Corporation Rajnandgaon, Distt. Rajnandgaon, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Sunil kumar Sahu, Advocate
For State	:	Ms. Astha Shukla. P.L.
For Respondent No. 2 & 3	:	Mr. Saurabh Sharma. Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

01/02/2019

1. The challenge in the present writ petition is to the order Annexure P-1 dated 6.03.2012 impugned order is to a punishment imposed upon the petitioner of stoppage of one annual increment with cumulative effect. The solitary ground that the petitioner has raised in the present writ petition is that the petitioner when he was served with a couple of show cause notices before punishment was imposed which is Annexure P-4 dated 15.09.2011, 22.9.2011 and 22.10.2011 and again on 24.10.2011. It is the further contention of the petitioner that the vide show cause notice dated 22.10.2011 the

respondents had proposed the petitioner to be inflicted with the punishment of stoppage of one annual increment without cumulative effect. However, when the punishment order was imposed the petitioner has been inflicted with the punishment of stoppage of one annual increment with cumulative effect.

2. This according to the petitioner was bad in law for the reason that respondents could not have inflicted the petitioner with a punishment contrary to the proposed punishment reflected in the show cause notice.
3. The perusal of the record would also reveal that this Court also vide order dated 17.09.2012 had granted interim protection to the petitioner holding that impugned order will not have the cumulative effect until further orders. From the perusal of the record and also on perusal of the return filed by the respondent it also reveals that pursuant to the show cause notice dated 22.10.2011, the Department as such has not conducted a detailed departmental enquiry nor any further show cause notice was issued to the petitioner whereby the department had called upon his explanation in respect of the punishment of stoppage of one annual increment with cumulative effect. In the absence of any such proceedings drawn by the respondent after having issued with a show cause notice proposing the punishment of stoppage of one annual increment without cumulative effect, this Court is of the opinion that the respondent could not have thereafter given the punishment which otherwise has the effect of a major penalty.
4. It is settled position of law that an employee can only be punished of the punishment for which he was show caused with proposed

punishment. If at all a different punishment had to be given then he should have been another show cause of the new punishment. The impugned order to that extent stands modified to the extent that the impugned order shall henceforth be read as stoppage of one annual increment without cumulative effect, Instead of stoppage one annual increment with cumulative effect.

5. The writ petition accordingly stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ankit/jyotij