

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPS No. 6485 of 2007

1. R.S. Thakur, aged about 57 years, S/o Dr. Raghevendra Singh Thakur, Near Old Pump House, Bandhwapara, Sarkanda, Bilaspur (CG).

---- Petitioner

Versus

1. High Court Of Chhattisgarh, through the Registrar General, High Court, Bilaspur (CG).
2. The District & Sessions Judge, Dist. Bilaspur (CG).

---- Respondent

For Petitioner	Shri Vinod Deshmukh, Advocate
For Respondent	Shri Naveen Shukla, Advocate on behalf of Ms Fouzia Mirza, Advocate

Order On BoardByPrashant Kumar Mishra, J.01/08/2019

1. The petitioner would assail the order dated 20.02.2006 (Annexure P-9) whereby the Registrar General has informed the petitioner that Hon'ble the Chief Justice has partly allowed his review petition setting aside the order of punishment passed by the District & Sessions Judge, Bilaspur on 22.05.2004 whereby he was terminated from service and instead he was punished with penalty of withholding two annual increments with cumulative effect. The petitioner was,

thus, reinstated in service with a lesser penalty while restoring his original seniority, however, the period from date of termination from service to the date of his reinstatement was treated to be on duty for the purpose of pension without any monetary benefits on the principle of '*no work no pay*' and he shall not be allowed any other amount except the subsistence allowance which has already been paid to him for the period of his suspension.

2. The petitioner was appointed as Process Writer on 5.10.1970. In the year 1972, he was promoted as LDC and in due course he was regularly promoted and reached to the post of Accountant w.e.f. 31.12.2001. The petitioner was placed under suspension on 09.06.2003 and thereafter a charge-sheet dated 10.07.2003 was served on him alleging that *firstly*; he paid subsistence allowance from 08.3.1996 to 04.12.2002 to one Ramesh Kumar Swarnakar, AG-II without there being any order of the District Judge and for the said purpose cleared the bills prepared by Shri M.M. Pimpalkhare, AG-II without verifying the record and; *secondly*; despite order by the District Judge on 09.06.2003 for handing over charge to Shri L.R. Todekar, second Assistant Accountant, he did not obey the order of the superior due to which he was again directed on 02.07.2003, but yet he did not hand over the charge. Due to this act of insubordination several files required to be dealt with by the Accountant were not available causing hindrance in official work.
3. In the duly drawn and conducted enquiry proceedings both the charges were proved in the enquiry report submitted by the Enquiry Officer on 12.3.2004 (Annexure P-5).

4. The petitioner was issued second show cause notice by serving upon him a copy of the enquiry report and thereafter penalty of removal from service was imposed vide order dated 22.05.2004 (Annexure P-7).
5. The petitioner moved Review/Mercy Petition before Hon'ble the Chief Justice, which was allowed in part by the order impugned.
6. Challenge to the findings of the Enquiry Officer has been thrown on the ground that the same is perverse and proper opportunity of hearing was not afforded, however, nothing has been pointed out during the course of hearing as to in what manner the principles of natural justice have been violated. The record would make it abundantly clear that the petitioner was served with charge-sheet along with list of witnesses and documents. He was allowed to cross-examine the witnesses as also to produce his own witnesses.
7. It is the settled law that the findings recorded by the Disciplinary Authority cannot be disturbed by the High Court in exercise of jurisdiction under Article 226 of the Constitution of India. (See: ***General Manager (Operations) State Bank of India and another Vs. R. Periyasamy***).¹
8. In so far as the proportionality of the punishment is concerned, suffice it would be to say that much leniency has been shown to the petitioner by accepting his review/mercy petition to substitute the order of removal from service to stoppage of two annual increments with cumulative effect. As an Accountant, it was the duty of the petitioner to have verified the bills before making payment of whopping amount

¹ (2015) 3 SCC 101

to a suspended employee, however, he made the payment without there being any order from the District & Sessions Judge. It would not only amount to irregularity in financial work but it would also amount to insubordination.

9. In my considered opinion, the subsequent order reducing the penalty has shown adequate sympathy to the petitioner and there is no further scope for reducing the penalty.
10. In the result, the Writ Petition, *sans* merit, is liable to be and is hereby dismissed. No order as to cost(s).

Sd/-

Judge
Prashant Kumar Mishra

Gowri