

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1258 of 2019

Pushpendra Singh S/o Shri Naresh Singh Aged About 33 Years R/o
45,bhagat Singh Nagar ,indore , police Station Banganga ,tahsil And
District Indore Madhya Pradesh .

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary Department Of Home/
Police Mahanadi Bhawan Mantralaya Police Station And Post Rakhi
Atal Nagar Raipur District Raipur Chhattisgarh.
2. Additional Director General Of Police (A-Dgp) Chhattisgarh Armed
Force (C.A.F.) Police Head Quarter (PHQ) Near Mahanadi Bhawan
Mantralaya Police Station And Post Rakhi Atal Nagar Raipur District
Raipur Chhattisgarh.
3. Commandant 13th Battalion Chhattisgarh Armed Force (C.A.F.) I.R.
Battalion Bango ,District Korba Chhattisgarh.
4. Babulal Kehri Enquiry Officer / Deputy Commandant 13th Battalion
Chhattisgarh Armed Force (C.A.F.) I.R. Battalion Bango ,district
Korba Chhattisgarh.
5. Akhilesh Behra Presenting Officer /platoon Commander 13th
Battalion ,Chhattisgarh Armed Force (C.A.F.) Bango District Korba
Chhattisgarh.
6. Manmohan Khaparde Preliminary Enquiry Officer/ Company
Commander 13th Battalion Chhattisgarh Armed Force (C.A.F.)
Bango District Korba Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Santosh Kumar Pandey with Mr. Abhishek Pandey Advocate.
For State	:	Mr. P Acharya, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/02/2019

1. The present Writ Petition has been filed assailing the disciplinary proceedings which have been initiated against the petitioner by the respondent No. 3 and 4.
2. The first contention of the counsel for the petitioner in the present case is that the inquiry proceedings stands vitiated on the ground that the respondent No.6 was the officer who conducted the preliminary inquiry and he at a later stage being produced as the witness of departmental inquiry and he has happens to be the complainant. Thus, it amounts to the complainant same person acting as a judge in his own cost.
3. The second ground that the petitioner has raised was that the departmental inquiry proceedings stands vitiated for the reason that certain witnesses were examined during the course of the inquiry when neither the inquiry officer nor the presenting officer were present and the evidences were recorded by the reader of the inquiry officer.
4. Both these grounds raised by the petitioner may not be entertainable at this juncture for the reason that, the inquiry proceedings is already undergoing. The petitioner has a right for raising objection before the inquiry officer who shall on such objection being raised would look into the inquiry proceedings.
5. Petitioner in the present inquiry had moved an application for appointment of Shri Raju Singh, constable in the department as co-worker as per rules .

6. The said application has been rejected by the disciplinary authority respondent No.3. The rejection of the appointment of Raju Singh was on the ground that, the said employee himself was a charge sheeted employee and there was an inquiry pending against him. Therefore, he cannot be permitted to act as a co-worker.
7. This objection of the petitioner in the opinion of this Court has got some strength for the reasons that the rules provided for an appointment of an employee of department as a co-worker. There is no dispute that Raju Singh is not the employee of the department. The rules also do not envisaged a situation where the co-worker cannot be appointed in case if he is subjected to the disciplinary proceedings himself, unless such a proceeding is available in the rule . The rejection of the application of the petitioner in appointing the co-worker does not seem to be justified and is contrary to the rule provision itself. The said objection of the petitioner therefore deserves to be allowed through present Writ Petition and the same is thus allowed and the inquiry proceeding dated 27.10.2018 initiated by respondent No.3. Therefore is the struck down holding it to be bad in law .
8. The respondent No.3 is directed to permit the petitioner to avail the services of constable Raju Singh as his co-worker and proceed further with the departmental inquiry.
9. So far as the first two objections that the petitioner has raised, the petitioner would be at liberty to raise his objection before the respondent No. 3 and also before the inquiry officer in this regard

who shall take note of these objections and proceed further in accordance with law.

10. With the aforesaid observations, the present Writ Petition stands partly allowed and disposed off.

Sd/-

(P. Sam Koshy)
Judge

Ayushi/Jyoti