

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 1806 of 2019

Sewaram Nirmalkar S/o Late Bodiram, Aged About 50 Years, Incharge Chief Municipal Officer, (Now Suspended), Nagar Panchayat, Narayanpur, District- Narayanpur, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Urban Administration And Development Department, Mantralaya, Atal Nagar, New Raipur, Chhattisgarh.
2. The Commissioner, Through Durg Division, Durg, Chhattisgarh.
3. The Director, Through Directorate Of Urban Administration And Development, Chhattisgarh, New Raipur, Chhattisgarh.
4. The Chief Municipal Officer, Through Nagar Panchayat, Dallirajhara, District- Balod, Chhattisgarh.

---Respondents

For petitioner	:	Shri K.K.Pandey, Advocate.
For State	:	Shri Rahul Mishra, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/03/2019

1. The present Writ Petition has been filed seeking for two reliefs. Firstly, the respondents be directed to release the subsistence allowance treating the petitioner to be under suspension. Secondly, further direction is sought for the respondents to conclude the departmental enquiry at the earliest.
2. The facts of the case in brief is that, the petitioner working as a Revenue Inspector was terminated vide order dated 01/10/2015 without conducting any sort of an enquiry. Against the said order of dismissal, the petitioner had preferred an appeal before the Commissioner, Durg and the

Commissioner vide order dated 23/11/2017 – Annexure-P/4 has allowed the appeal of the petitioner and has ordered the respondents to pass a fresh order after conducting a departmental enquiry and granting an opportunity of hearing to the petitioner.

3. The grievance of the petitioner is that though the order of the Appellate Authority was passed on 23/11/2017, but till date no proceedings thereafter have been concluded or atleast the petitioner has not been intimated about the same and the petitioner also is not being paid the subsistence allowance. This has necessitated the petitioner to file the present Writ Petition.

4. Having heard the contentions put forth by the counsel for the petitioner and on perusal of record, prima-facie, on considering the order passed by the Commissioner it clearly reflect that the order of dismissal has been held to be bad by the Appellate Authority i.e. the Commissioner vide order dated 23/11/2017. As a natural consequence on the order of dismissal being set-aside by the Commissioner or the Appellate Authority, the employee concerned would have to be deemed to be taken back in service and the employee for all practical purposes would be considered to be placed under suspension and till a fresh order is passed treating the petitioner under suspension he would be entitled for subsistence allowance for the intervening period.

5. The said prayer of the petitioner is totally justified and the petitioner is definitely entitled for the same and it is ordered accordingly that the

concerned respondents shall forthwith release the petitioner the subsistence allowance from the date it has not been paid till date.

6. So far as the departmental enquiry part is concerned, if the respondents have not initiated any steps for conducting the departmental enquiry, it is ordered that the respondents should take all steps to ensure that the enquiry if any initiated against the petitioner be concluded at the earliest.

7. So far as the subsistence allowance is concerned, the same should be finalized within a period of 60 days from today.

8. With the aforesaid directions, the Writ Petition stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit