

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 424 of 2013**

{Arising out of Order dated 08.04.2013 passed in Writ Petition No. 3015 of 1998 by the learned Single Judge}

Smt. Meera Gupta, Aged about 67 years, W/o Late Shri Rajnarayan Gupta, R/o Block-20, Plot No. 2, Nehru Nagar, West Bhilai 490020, Tahsil and Durg Chhattisgarh

---- Appellant**Versus**

1. Chairman-cum-Managing Director, Hindustan Steel Works Construction Limited, 1, Shakespere Sarani, 8th Floor, (Kolkata) Calcutta - Pin 700071 (West Bengal)
2. General Manager, Hindustan Steel Works Construction Limited, Bhilai, Pin 490020, Revenue District Durg, Chhattisgarh.

---- Respondents

For Appellant	: Shri V.G.Tamaskar, Advocate.
For Respondents	: None

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per Ajay Kumar Tripathi, Chief Justice****02/01/2019**

1. Writ application of the Appellant challenging the order of dismissal from service was dismissed vide order dated 08.04.2013 by the learned Single Judge since he did not find any merit in the decision of termination, as a consequence of findings of guilt which emerged in a departmental enquiry.
2. Aggrieved by the said decision of the learned Single Judge, appeal has been preferred.
3. Factual matrix behind the present litigation has its origin in a CBI raid which was conducted on 30.06.1988 against the Appellant, when he was working as Superintending Engineer. After the raid, the CBI registered a criminal case under the Prevention of Corruption Act, 1947 as amended 1988 before the Special Judge, CBI at Dhanbad, Bihar.

4. The Court is informed that the former employee-Raj Narayan Gupta stood convicted by the Special Judge, CBI and an appeal against his conviction is pending before the Ranchi High Court. In the meantime, the employee passed away and the wife has been substituted as legal heir who is pursuing the matter, with leave of the Court dated 29.08.2016
5. Besides the criminal case, a charge-sheet was issued to the erstwhile employee on 29.07.1988. The charges primarily revolved around failure on his part to maintain absolute integrity and devotion to duty as also the fact that he had acquired movable and immovable properties in the name of his family members beyond his means. The departmental enquiry proceeded and culminated into finding of guilt and an order of punishment of dismissal was passed on 05/06.10.1998. The order of dismissal came to be challenged before the Calcutta High Court. A Division Bench of Calcutta High Court set aside the order of dismissal on certain technicalities but did not interfere with the charge-sheet since it found the charges to be serious. Three months time was granted to the authorities to complete the enquiry. In terms of the direction of the Calcutta High Court the additional evidence and materials were also served and brought to the notice of the erstwhile employee.
6. The time of three months was further extended. During this extended period of time, a *de novo* enquiry on the charges so framed against the employee proceeded. The employee attended the enquiry initially. He denied the charges and from the records, it seems that he chose not to cooperate and absented himself from the enquiry.
7. The departmental enquiry was conducted, concluded and based on the enquiry report where finding of guilt was recorded, a notice was served upon the employee alongwith the copy of enquiry report. It is pleaded that he requested for some time as also a request for personal hearing which

was denied by the Respondent-Company and then the order dated 27.01.1998 terminating the services of the employee was passed.

8. All the proceedings previously were conducted before the Calcutta High Court but when the final order of dismissal was passed, the employee chose to assail the said decision by filing a writ application before the erstwhile Madhya Pradesh High Court which was registered as Writ Petition No. 3015 of 1998 and subsequently stood transferred to this High Court on its creation on 01.11.2000.
9. Argument before the learned Single Judge on behalf of the Appellant was that the charges levelled against the employee was vague and uncertain in relation to the allegations of failure to maintain absolute integrity and devotion to duty. With regard to acquisition of movable and immovable property, it was the stand of the employee that he had been informing the authorities about the said acquisitions and the same was not taken into consideration. Only on the basis of the documents, which was seized by the CBI in the raid conducted by them, the entire proceeding culminated into finding of guilt and then the order of punishment.
10. Considering the contentions and the background, the learned Single Judge examined the matter and came to the considered opinion that the strict standard of proof required in a criminal proceeding is not required in case of departmental enquiry. Adequate opportunity had been given by the Enquiry Officer and based on those materials which came during the enquiry, the Enquiry Officer found that the charges with regard to the erstwhile employee in maintaining integrity or acquiring movable or immovable property beyond his known source of income came to be established.
11. Besides the fact that the enquiry officer found the erstwhile employee to be guilty of the charges brought against him, the charge brought before the Special Court, CBI of having committed offences under the Prevention of

Corruption Act, was also established which culminated into his conviction.

12. Since the CBI Court has also found the employee in question guilty, therefore, his conviction by itself also is an indication to the fact that his continuance in service became untenable and so long as the superior Court does not absolve him of such finding recorded by the trial Court, the employee, even if he was otherwise alive, could not have been ordered to be reinstated back in service.
13. Before this Court also, submission was sought to be made as to why the employee could not participate in the departmental enquiry and as to why the *ex parte* order should be set aside. But from the records of the proceedings, it seems that the reason for absence or non-participation was a conscious decision taken on part of the erstwhile employee to delay and dilute the matter and if the Respondent-authorities, in terms of the time frame fixed by the Calcutta High Court completed the enquiry and the prejudice so caused due to conduct of the so-called *ex parte* enquiry not having been highlighted or brought about in this appeal or before the learned Single Judge, refusal to interfere with the order of punishment by the learned Single Judge cannot be said to be erroneous.
14. We are satisfied that in the given facts and circumstances, the order impugned dated 08.04.2013 of the learned Single Judge does not need interference.
15. The appeal has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE