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**HIGH COURT OF CHHATTISGARH BILASPUR****Judgment reserved on 14/08/2019****Judgment delivered on 04/10/2019****Writ Appeal No. 358 of 2019***(Arising out of order dated 15/03/2019 passed in Writ  
Petition (S) No.461/2005 by the learned Single Judge)*

Shyam Kumar Patel (since dead) Through Legal  
Representatives:

1. Sita Bai, W/o Late Shyam Kumar Patel, aged about 50 years,
2. Naval Patel, S/o Late Shyam Kumar Patel, aged about 22 years,

Both are resident of Village-Navapali, Block-Pussore, Gram  
Panchayat Bijkot, Distt. Raigarh (C.G.).

**---- Appellants**

**Versus**

1. The State of Madhya Pradesh, through Secretary, M.P. Panchayat and Social Welfare Development Department, Government of M.P., Vallabh Bhawan Bhopal (M.P.).
2. The Director, Chhattisgarh Panchayat and Social Welfare Development Department, O/o Directorate, Govt. of Chhattisgarh, Raipur (C.G.).
3. Joint Director, Panchayat and Social Welfare Department Bilaspur Division, Bilaspur.
4. Divisional Deputy Director, Panchayat and Social Welfare Department, Bilaspur Division Bilaspur.
5. Dy. Director, Panchayat and Social Welfare Department, Bilaspur Division, Bilaspur.

6. State of Chhattisgarh through the Secretary, Department of Panchayat of Rural Development, Mahanadi Bhawan, Atal Nagar, Raipur (C.G.).

---- Respondents

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| For Appellant        | : | Mr. Animesh Verma, Advocate           |
| For Respondent/State | : | Mr. Vikram Sharma, Dy. Govt. Advocate |

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**Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**  
**Hon'ble Shri Parth Prateem Sahu, Judge**

**C A V Judgment**

**Per Parth Prateem Sahu, Judge**

1. Appellant/original petitioner (hereinafter referred to as the 'petitioner') has filed this writ appeal against the impugned order dated 15/03/2019 passed by learned Single Judge in Writ Petition (S) No.461/2005 dismissing writ petition filed by petitioner challenging his order of removal/termination from service.

2. The case of the petitioner is that he was working as part-time Secretary and by virtue of policy of the State Government, part-time Secretaries working till 1986 continuously are to be given regular appointment on the post of Gram Sahayak in the pay-scale of Rs.485-740/-. In pursuance to said policy of the State Government, the petitioner was appointed as Gram Sahayak on 15/01/1987. Subsequently, he was served with a charge-sheet on 11/10/1989 to conduct enquiry. The Enquiry Officer as well as Presiding Officer was appointed and after conclusion of enquiry, the Enquiry Officer submitted its report

mentioning therein that charges levelled against the petitioner found to be proved. Based on the enquiry report submitted by Enquiry Officer, the Disciplinary Authority passed an order of removal of petitioner from service vide order dated 19/06/1991.

**3.** The order of removal/termination was challenged by the petitioner before the Madhya Pradesh State Administrative Tribunal, Jabalpur (hereinafter referred to as 'Tribunal') by filing an Original Application bearing No. 2319/1991. The Original Application filed by the petitioner before the Tribunal remain pending and after re-organization of State of Madhya Pradesh and formation of new State of Chhattisgarh, the Original Application pending before the Tribunal of the territorial jurisdiction of the Chhattisgarh has been transferred to the High Court of Chhattisgarh, which made registration of Original Application as Writ Petition No. 461/2005. The writ petition was dismissed on 15/03/2019 whereby learned Single Judge considering the fact that there was an allegation on the petitioner that he obtained job of Gram Sahayak by placing forged and fabricated certificate of his employment since 1979- to 1986 and further no prove could be submitted by the petitioner to controvert the findings recorded by the Enquiry Officer.

**4.** Learned counsel appearing for the appellants submits that learned Single Judge failed to consider that there was violation of the principles of natural justice as he was neither supplied

required documents nor documents mentioned in charge-sheet were supplied to him; enquiry proceeding has been conducted in violation of settled principles of law and provisions of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter refereed to as 'Rules of 1966'). In view of the aforementioned submission, he submits that the order of learned Single Judge requires interference.

**5.** Per contra, learned counsel appearing for resplendent/ State submits that on the basis of complaint received by authority against petitioner along with more than 20 persons have obtained service by submitting forged and fabricated certificate of their engagements in the year 1979 till 1986. He further submits that enquiry has been conducted strictly in accordance with law; the charge-sheet was issued; Enquiry Officer was appointed; witnesses were examined; petitioner was also afforded an opportunity to cross-examine the witnesses, thereafter, enquiry report was submitted before the Disciplinary Authority and Disciplinary Authority passed an order of termination. He also submits that in the order of appointment issued to the persons as Gram Sahayak including the petitioner it is mentioned that employment is temporary in nature and if the documents i.e. mark-sheet, certificate of their engagement etc. as part-time Secretary found to be forged and fabricated, then their services would be terminated.

**6.** We have heard learned counsel appearing for the parties.

7. We have gone through the entire record of the writ petition, in which, enquiry report has been filed along with reply filed by respondents. Respondents have placed on record audit objection of year 1982-83 of village Panchayat Binjkot, in which, name of Secretary has been tried to be manipulated and Enquiry Officer after conclusion of enquiry, arrived at a conclusion that the petitioner has never performed the work of Secretary at village Panchayat Binjkot and one Kishori Lal Nande was working as a village Secretary. It was recorded that Kishori Lal Nande was appointed as Secretary on 18/08/1978 and he was not removed. It was also recorded that Kishori Lal Nande performed the work as Village Assistant/Secretary, therefore, his name has been mentioned in audit report and the petitioner after removing the name of Kishori Lal Nande, inserted his name in the records of village Panchayat. The Enquiry Officer has also recorded that name of petitioner has been entered in old records of village Panchayat, which requires separate enquiry and responsible persons are to be identified.

8. The aforementioned finding recorded by Enquiry Officer is a fact finding based on material and evidence placed before him. The learned Single Judge recorded that there is lack of authentic evidence and material on behalf of appellant/petitioner on his engagement and copy of certificate cannot lend credence. The learned Single Judge has further to

say so for dismissal of the writ petition :

“13. In these circumstances, therefore, it is difficult for this Court to set aside the order or interfere with the decision of the Respondents to terminate the Petitioner from service. The Court dismisses the writ application with a heavy heart but then the time seems to have done its damage coupled with sketchy kind of evidence and pleadings in the Original Application which was filed before the Tribunal and not supplemented even before the writ Court over the years.”

**9.** Learned counsel appearing for the appellants repeated the same argument as placed before the learned Single Judge, which was already dealt with and we do not find any infirmity in the finding arrived.

**10.** The main thrust of the counsel for appellants is that the enquiry proceeding was not proceeded in accordance with law. Learned counsel could not bring before this Court also any material to show that immediately the employee raised any objection before Enquiry Officer or before any Forum. After lapse of long time, it cannot be permitted to raise such technical argument. The Hon'ble Supreme Court in the matter of **Jagadish Lal Gambhir v. Punjab National Bank and others**<sup>1</sup>, held thus:-

“21.....That being the position, it is now too

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<sup>1</sup> (2016) 1 SCC 488

late in the day for Gambhir to contend that his placement in PNB was erroneous and therefore the issuance of the charge-sheet by the Assistant General Manager in PNB was vitiated in any manner.”

**11.** In the aforementioned case, issuance of charge sheet was questioned, but the Hon'ble Supreme Court repelled the argument on the ground that it was not raised initially. In the case at hand also it was not brought to the notice of this Court that initially any such technical objection was raised. The other aspect of the case is that during pendency of the petition, original petitioner/employee died.

**12.** For the foregoing discussion, we do not find any illegality or infirmity in the impugned order passed by learned Single Judge warranting interference by this Court. The writ appeal sans merit and is accordingly dismissed.

**Sd/-**

**(P. R. Ramachandra Menon)**  
**Chief Justice**

**Sd/-**

**(Parth Prateem Sahu)**  
**Judge**