

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4682 of 2019**

Yaadram Yadav S/o Bholaram Yadav, Aged About 56 Years, Constable
G.D. No. 810480147, CRPF Kondagaon, District Kondagaon
Chhattisgarh

---- Petitioner**Versus**

1. Union Of India Through Secretary Home Department, Lodhi Road,
New Delhi
2. Inspector General Of Police Through Central Reserve Police Force,
Office Of Inspector General Of Police, CRPF, Agartala (Tripura).
3. Commandant, 188 Battalion, CRPF Kondagaon, District Kondagaon
Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Anup Majumdar and Mr. Basant Dewangan, Advocates.
For Respondents	:	Mr. Raj Kumar Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****27.06.2019**

1. The present writ petition has been filed seeking for two main reliefs
which are as under:
 - i) That the Hon'ble Court may kindly be pleased to direct the
respondent authorities to provide the documents related to the
departmental enquiry on the petitioner.
 - ii) That the Hon'ble Court may kindly be further pleased to direct

the respondent authorities to allow the petitioner to nominate his desirable defence assistant.

2. The present is a second round of litigation. The petitioner was earlier issued with an order of compulsory retirement with reduction of pension vide order dated 21.01.2009. The order was subjected to challenge in WPS No. 488/2009. This Court vide its judgment dated 24.09.2018 had allowed the writ petition and quashed the order of punishment dated 21.01.2009. This Court had allowed the writ petition on the ground that the enquiry which was conducted against the petitioner, on the basis of which the order of compulsory retirement and reduction in pension was issued was technically incorrect/illegal and the same stood vitiated. After vitiating the departmental enquiry and quashment of the order of punishment, it appears that the respondents have now initiated a fresh enquiry against the petitioner.
3. Though the petitioner has filed the present writ petition claiming for an appropriate direction to the respondents to provide the documents related to the departmental enquiry and also to permit the petitioner for appointment of a defence assistant, this Court, at this juncture, may not like to interfere with the departmental enquiry that has been initiated by the department pursuant to an order passed by this Court on 24.09.2018 in WPS No. 488 of 2009.
4. However, it is otherwise expected that the Enquiry Officer would be conducting the departmental inquiry in accordance with the rules and regulations governing the field and also by following the basic principles of natural justice. It is always expected that if the

Department relies upon certain records and documents against the petitioners during enquiry, the same has to be given to the petitioner so that he can effectively oppose the same in case he intends to do so. This is the first requirement under the basic principles of natural justice so also the appointment of a defence assistant is always envisaged under the service regulations particularly dealing with the departmental enquiry. In the event the rules and regulations or the procedure of enquiry applicable in the department has such a clause, this Court does not find any good reason why the Disciplinary Authority or for that matter the Enquiry Officer would not consider the request of the petitioner for the same.

5. With the aforesaid observation, the writ petition stands disposed of.

**Sd/-
P. Sam Koshy
Judge**