

HIGH COURT OF CHHATTISGARH AT BILASPUR**REVIEW PETITION NO. 161 OF 2019**

Raipur Development Authority, through Officer in Charge – A.D. John,
Administrative Officer, Raipur Development Authority, Raipur, District Raipur (CG)

... Applicant

versus

1. Khirod Soni, S/o Shri Lambodar Soni, aged about 45 years, R/o Siddharth Chowk, PS City Kotwali, Nagar Nigam Colony, Tikrapara, Raipur, District Raipur (CG)

2. State of Chhattisgarh, through Urban Development Department, Naya Raipur, Mantralaya, District Raipur (CG). **... Non-applicants**

For Applicant	:	Mr. Kishore Bhaduri, Advocate.
For Non-applicant No.1	:	Mr. S.P. Kale, Advocate.
For Non-applicant No.2	:	Ms. Sunita Jain, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/10/2019

1. The present review petition has been preferred seeking review of the order dated 15.4.2019 passed by this Court in WPS No. 2075/2013.

2. Facts of the case in nutshell are that the non-applicant no.1 (petitioner in the writ petition) was an employee under the applicant herein. He was working as Workcharged Contingency Paid employee under the applicant establishment. He was issued with a memo on 26.5.2012 seeking his explanation for his misconduct for remaining absent for a considerable period of time, to which he had submitted his reply. Thereafter, the applicant establishment issued an order dated 1.10.2012 (Annexure P-1 in the writ petition) terminating his services invoking the provision of Rule 13 (Seven) and 14 (One)(Two)(Three) of the Rules, 1975.

3. This Court vide its order dated 15.4.2019 had allowed the said writ petition to the extent of holding the order of termination of service dated 1.10.2012 to be bad in law for the reason that the respondents after issuance of the charge-sheet have not taken disciplinary proceeding to a logical conclusion rather have straightaway passed the termination order. Reserving the right of the respondents, i.e., applicant-establishment, for conducting a departmental enquiry, if they so want, the writ petition stood allowed and the petitioner was ordered to be reinstated in service without back wages.

4. The review petition has now been filed on 28.6.2019. The sole ground that the applicant establishment has raised in the present review petition is that since the services of the petitioner are governed by the Workcharged Contingency Paid Employees Rules, there was no statutory requirement of conducting a departmental enquiry and therefore the order of this Court setting aside the termination order only on the ground of not conducting a departmental enquiry is bad in law and also contrary to the rules governing the service conditions of the petitioner-employee.

5. According to the learned counsel for the applicant-establishment, since the non-applicant no.1/employee was not a regular employee of the applicant-establishment and was only a contingency paid employee, the requirement of conducting a departmental enquiry never arose and the need would have only arisen had the non-applicant no.1 was a regular employee of the applicant-establishment.

6. At this juncture, it would be relevant to take note of the contents of the reply that the applicant-establishment had filed in the original writ petition. In the entire reply that they had filed in the original writ petition, there was no objection raised by them so far as the non-necessity of conducting a departmental enquiry. On the contrary, the applicant-establishment itself taken a plea that since the facts were admitted in its nature and documents, there was no necessity for conducting a departmental enquiry and that conducting of a departmental enquiry would only be an empty formality.

7. This pleading of the applicant-establishment clearly gives an inference that there was a requirement of conducting a departmental enquiry. However, in the admitted factual matrix of the case, the department thought of dropping the departmental enquiry as it could have been only an empty formality. The defence raised by the applicant-establishment in their reply was that the employee had submitted his reply to the charge-sheet and the memos issued to him periodically.

8. Given the facts, this Court is of the opinion that the ground which the applicant-establishment is now raising in the present review petition, since it was not a ground or objection raised by them in their reply that they had filed in the writ petition, neither was such a ground raised by them when the writ petition was heard finally and decided, the said ground would not be a ground available for the applicant for the purpose of filing a review petition.

9. So far as the scope of review is concerned, it is by now a well settled preposition of law that the review petition would be entertained only in the event of there being an apparent error on the face of record. Neither in the pleading of the reply nor in the contentions that they had raised during the course of argument before this Court, there was any such ground raised by the applicant-establishment which they are now raising in the present review petition. It is trite at this juncture to refer to certain decisions rendered by the Hon'ble Supreme Court on the question of entertaining the review petition in the matters of *Kerala State Electricity Board Vs. Hitech Electrothermics & Hydropower Ltd. & Ors.*, 2002 (6) SCC 651, *Government of T.N. & Ors. Vs. Ananchu Asari & Ors.*, 2005 (2) SCC 332, *Ajit Kumar Rath Vs. State of Orissa & Ors.*, AIR 2000 SC 85, *Lily Thomas etc. Vs. Union of India & Ors.*, AIR 2000 SC 1650 and *Meera Bhanjan Vs. Smt. Nirmal Kumar Chowdhary*, AIR 1995 SC 455.

10. Under the facts and circumstances of the case, this Court does not find any strong case to be made out by the applicant-establishment calling for an interference with the order against which the present review petition has been filed.

11. The review petition accordingly stands dismissed.

Sd/-
(P. Sam Koshy)
JUDGE

/Sharad/