

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 8192 OF 2018**

Babulal Patkar Aged About 56 Years The Then Sub-Engineer, Public Health Engineering Department, Satna, Presently At Sub-Division Gauraela, District Bilaspur Chhattisgarh

---- **Petitioner****Versus**

State Of Chhattisgarh Through Public Health Engineering Department, Mahanadi Bhawan, Atal Nagar, Raipur- 492002 Chhattisgarh

**-----Respondents**

|                |                                                        |
|----------------|--------------------------------------------------------|
| For Petitioner | : Mr. Kishore Bhaduri with Mr. Pankaj Singh, Advocates |
| For State      | : Ms. Sunita Jain, G.A.                                |

**Hon'ble Shri Justice P. Sam Koshy****Order on Board****08.11.2019**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 02.11.2018 vide the impugned order, the service of the petitioner stands dismissed.
2. The reason for the dismissal is the conviction of the petitioner in a criminal case for an offence punishable under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988.
3. The challenge is to the order of termination on the ground that the impugned order is without application of mind and any mechanical manner only based on the Judgment of conviction. The further ground of challenge is that against the Judgment of conviction, the petitioner has already preferred a criminal appeal in which the sentence part has already got suspended by the petitioner and therefore, till the criminal appeal would have been finally decided,

the respondents ought not to have passed the impugned order of termination. The other ground of the petitioner is that the Judgment of conviction was passed way back in September 2014. Petitioner was still retained in service till 2018 which shows that petitioner was continued in employment in spite of he being convicted. Therefore, after four years when the respondents have passed an order, they ought to have considered whether it was necessary for terminating services of the petitioner any further, particularly, during the pendency of the criminal appeal and petitioner having got suspension of sentence by the Court.

4. This Court on perusal of facts finds the factual matrix of the case totally undisputed that petitioner was working as a Sub Engineer under the respondent-Public Health Engineering Department of the State Government. The petitioner was prosecuted in a criminal case before Special Judge PC Act, Satna, Madhya Pradesh, in respect of certain offences which were committed by the petitioner while he was posted under the erstwhile State of Madhya Pradesh before formation of the State of Chhattisgarh.
5. Special Judge finally vide Judgment dated 24.09.2014 finding the charge levelled against the petitioner were proved and found him guilty of the offence under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988.
6. The petitioner preferred a criminal appeal before the High Court of Madhya Pradesh vide Cr.A. No. 2759/2014 and the High Court

admitted the appeal and suspended sentence part vide its order dated 09.10.2014. Subsequently, the respondents had passed an impugned order Annexure P-1 dismissing the services of the petitioner on the ground of petitioner being convicted in a criminal case. What has to be seen, at this juncture, is the fact that the petitioner's conviction is for an offence under prevention of corruption Act. The Nature of allegation was in respect of certain illegality and irregularity committed by the petitioner in the course of discharging the duties as Sub Engineer.

7. In the Criminal Appeal, the High Court has not stayed the conviction of the petitioner which has only stayed the operation of the sentence part. The Natural implication of which is that the petitioner remains convicted as long as the judgment of the Trial Court is not set aside by the High Court. In the criminal appeal, the benefit of suspension of sentence is only to extent that the petitioner need not undergo custody part till further orders of the High Court.
8. The fact that the employee stands convicted in a criminal case more particularly for an offence under Prevention of Corruption Act, 1988, this itself is a sufficient ground declaring him disqualified from Government employment. Chhattisgarh Civil Services (Classification, Control and Appeal ) Rules, 1966 provides for certain special procedures in certain case. Rule 19(1) for ready reference reads as under:-

“(i) Where any penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge”.

9. The plain reading of the aforesaid provision of law would by itself clearly indicate that in the event of a Government servant stands convicted in a criminal case, procedure otherwise laid down under Rule 14 to Rule 18 need not be applied for imposing penalty of dismissal.

10. So far as the ground of the petitioner that the authorities concerned should have applied their mind before imposition penalty order of dismissal in the given facts is concerned, this Court is of the opinion that such procedures are not envisaged under the Rules nor is it required in the admitted factual matrix of the case where admittedly the petitioner stands convicted in a criminal case and he has been sentenced to undergo R I for 6 years with fine of Rs. 25,000/-. The provision of 19(1) by itself is a complete provision not in any manner connected to 19(ii) or for that matter 19(iii) which are independent provision by themselves which have to be exercised in a different factual background of the case. The Provision of 19(ii) & 19(iii) are not to be attracted in the case where the facts fall under the provision of 19(1) of the Rules, 1966.

11. Given the aforesaid facts and Circumstances of the case and taking undisputed fact of the petitioner being convicted in a criminal case and his criminal appeal still pending before the High Court, this Court is of the opinion that the impugned order does not warrant any

interference at this juncture. Reserving the right of the petitioner to put his claim before authorities concerned in the event of the criminal appeal being allowed in his favour and the judgment of conviction is set aside by the High Court and the petitioner stands acquitted of the charges under Prevention of Corruption Act, 1988.

- 12.** The writ petition in its present forms and at this stage stands rejected.

Sd/-

**(P. Sam Koshy)**  
**Judge**

Jyotijha