

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 41 of 2019

M.M. Sonwani S/o Shri C.L. Sonwani Aged About 62 Years Ex Stenographer In The District Court At Durg, R/o Sikola Basti, Near Pankaj General Store, Durg, District Durg, Chhattisgarh, District : Durg, Chhattisgarh

---- **Petitioner**

Versus

1. The Registrar, High Court Of Chhattisgarh High Court Of Chhattisgarh, Bilaspur, District : Bilaspur, Chhattisgarh
2. District Judge, District Court, Durg, District : Durg, Chhattisgarh

---- **Respondents**

For petitioner	:	Shri K.R. Lonia, Advocate.
For State	:	Shri Rahul Mishra, Dy. GA
For respondent/s	:	Shri Ashish Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/01/2019

1. The present writ petition has been filed seeking quashment of the dismissal order dated 14/10/1996 Annexure (P-1). The facts relevant for the adjudication of the dispute is that the petitioner was working as a Stenographer in the District Court Establishment, Durg on account of certain misconduct was subjected to departmental enquiry and pursuant to the departmental enquiry disciplinary Authority imposed a punishment of dismissal from service on 14/10/1996. The said order of termination was subjected to challenge in the writ petition No. 470/1998 which finally stood dismissed on 08/04/2013. The said order was to be tested before the Division Bench in Writ Appeal No. 370/2013 and the writ Appeal also stood rejected on 24/09/2013.
2. Subsequent to the dismissal of the writ appeal challenged both these orders before the Supreme Court vide S.L.P. No. 20270/2015 and the Hon'ble Supreme Court also dismissed the S.L.P. on 23/11/2015. Meanwhile the petitioner for certain offences that he had committed was prosecuted in criminal case and in the criminal case the petitioner was prosecuted for the charges under Section 353, 294, 332 of the IPC. Trial ultimately got concluded vide judgment dated 28/09/2004 whereby the petitioner granting benefit of doubt acquitted from the

charges. Present writ petition has been filed seeking quashment of the order of dismissal on the ground of his being acquitted of the criminal case. The petitioner also prays for the dues that would have been paid to the petitioner gratuity and pension etc. This Court in the factual matrix of the case does not find it to be a case which would be entertained at this juncture particularly when the order of dismissal has already been put to test before this Court in writ petition as also in writ Appeal and in both these proceedings order of dismissal was affirmed and the writ appeal stood dismissed. Two orders of this Court was also affirmed by the Supreme Court vide its order dated 23/11/2015.

3. Supreme Court having affirmed the order passed in the writ petition as well as in the writ Appeal order of dismissal has since attained finality, this Court in exercise of its power under Article 226 cannot reopen the proceedings that has already been considered and decided and also affirmed in the appellate jurisdiction.

4. The fact itself reveal that the petitioner had been proceeded in a departmental enquiry in a set of charges which were said to be misconduct that he had committed and the criminal case were proceeded for different criminal charges and offences. Therefore, the two proceedings cannot be equated and the petitioner in the given circumstances would not be entitled for any benefit of being acquitted in a criminal case particularly when the dismissal order arose out of a separately conducted departmental enquiry. Another reason that this Court finds it difficult to entertain the writ petition is that when the judgment of acquittal was passed on 28/09/2004 the original writ petition itself was pending before this Court.

5. Present writ petition now is being filed after more than 14 years from the date of acquittal. Given the said facts this Court does not find any good ground for entertaining the writ petition, writ petition fails and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
JUDGE