

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPS No. 2140 of 2009

1. Sajjanlal Chakradhari aged about 51 years son of Shri Jageshar Prasad (Dismissed Civil Judge Class II) R/o Bajrangipara Behind Ganesh Talkies Janjgir District Janjgir – Champa C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Chief Secretary Law and Legislative Affairs Department, D.K.S. Bhavan Mantralaya, Raipur C.G.
2. The High Court of Chhattisgarh through Registrar General, High Court Of Chhattisgarh At Bilaspur CG

---- Respondents

For Petitioner	Mr. Ram Kumar Tiwari, Advocate For
Respondent/State	Mr. Avinash Choubey, Panel Lawyer
For Respondent No.2	Mr. Amrito Das, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

27/02/2020

1. In the present writ petition under Article 226 of the Constitution of India the petitioner has challenged the order dated 16-11-2007 (Annexure – P/1) passed by the respondent No.1 and the appellate order dated 22-10-2008 (Annexure – P/2) whereby the petitioner has been

dismissed from service and his appeal against the said dismissal has been rejected.

2. Petitioner was initially appointed on the post of Civil Judge Class II on 17-10-1994. While the petitioner was posted as 1st Civil Judge Class II and Judicial Magistrate First Class (JMFC), Dantewada he was placed under suspension vide order dated 1-9-2005 (Annexure – P/4) in contemplation of a departmental enquiry. The charge sheet dated 23-9-2005 (Annexure – P/5) was issued against the petitioner on the charge that on 14-3-2005 he attended the Court in a state of intoxication and misbehaved with Shri Jitendra Mahapatra, Reader of Chief Judicial Magistrate (CJM), Dantewada and Shri Ashok Jain, Advocate by filthily abusing them and at the same time wrote objectionable language in the Court record.
3. In the particulars of charges (Annexure – P/7) the events, which happened on 14-3-2005, were stated in detail. It is stated therein that on 14-3-2005 the CJM, Dantewada, was on leave, therefore, as per work distribution the petitioner, who was JMFC, was required to discharge the urgent work of the said Court. After lunch break the petitioner was available in his office. When Shri Murali Chandrawanshi, Deposition Writer of CJM, Dantewada brought certain order sheets of the Court of CJM, he witnessed that the petitioner was available in his chamber in fully intoxicated condition. Instead of putting signature over the order sheet he wrote irrelevant things on the right side of the order sheet and shouted on the Deposition Writer to take back the

files and send the Reader. Thereafter, the Deposition Writer went to call Shri Mahapatra, Reader of CJM, Dantewada, however, petitioner also reached to the Court of CJM and while walking in an uncontrolled manner he reached near the table of Reader Shri Mahapatra. The petitioner started abusing him filthily; took out his shoes and then went back. Shri Mahapatra went to the Court Superintendent for making complaint, but once again the petitioner reached to the Court of CJM and started abusing filthily. Shri Ashok Jain, Advocate present in the Court also tried to persuade and convince the petitioner, but he too was pushed by the petitioner. After some time the Court Superintendent visited the petitioner's chamber and found him to be fully intoxicated.

4. Along with the above charge sheet, the petitioner was served with list of witnesses and list of documents. Petitioner submitted his reply vide Annexure – P/10 and denied the charges. In course of departmental enquiry the Presenting Officer examined (1) Shri Pooran Singh Yadav, Peon of CJM, Dantewada; (2) Shri Murali Chandrawanshi, Deposition Writer of CJM, Dantewada; (3) Shri Rajendra Vaid, AG III, Court of ADJ, Dantewada; (4) Shri Ashok Jain, Advocate; (5) Shri Jitendra Kumar Mahapatra, the then Reader of CJM, Dantewada; (6) Shri M.S. Pare, the then Court Superintendent; (7) Shri T.K. Jha, 1st Addl. District & Sessions Judge, Dantewada; and (8) Shri C.B.S. Patel, District & Sessions Judge, South Bastar, Dantewada. The complaints lodged by Shri Ashok Jain, Advocate and Shri Jitendra Mahapatra, memo written by Shri T.K. Jha to

the High Court over the said complaint, complaint filed by Shri Murli Chandrawanshi and the preliminary report of Shri C.B.S. Patel, District & Sessions Judge were also proved in course of enquiry, however, the petitioner has challenged the contents of complaints and the reports.

5. Based on statement of witnesses and the documents referred above the Enquiry Officer concluded that the petitioner was fully drunk/intoxicated while on duty as Civil Judge Class-II/JMFC, Dantewada and has filthily abused and misbehaved with the Deposition Writer and Reader of CJM, Dantewada as also with Shri Ashok Jain, Advocate. These witnesses have fully supported the charge against the petitioner.
6. In course of hearing before this Court, record of departmental enquiry proceedings were placed before me for perusal. Having seen the oral evidence as well as the documents in the nature of complaint and reports of the Additional District Judge and the District Judge it appears there is absolutely no perversity in the finding of guilt recorded by the Enquiry Officer.
7. It is the settled proposition of law that the Court will not interfere with the findings in the departmental enquiries, except where such findings are based on no evidence or the same is perverse.
8. In ***General Manager (Operations) State Bank of India and another Vs. R. Periyasamy***, (2015) 3 SCC 101}, it has been observed in para-9 thus:-

9. In *State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya*, this Court observed as follows: (SCC p. 587, para 7)

7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide *B.C. Chaturvedi v. Union of India*, *Union of India v. G. Ganayutham*, *Bank of India v. Degala Suryanarayana* and *High Court of Judicature of Bombay v. Shashikant S. Patil*.)”

It is not necessary to multiply authorities on this point. Suffice it to say that the law is well settled in this regard.”

9. Albeit learned counsel for the petitioner has strenuously urged by referring to the nature of charges and by submitting that there is no chemical or scientific report to prove that the petitioner was drunk on the date of incident,

but this Court is not convinced with the submission for the reason that the present is not a criminal prosecution where proof beyond reasonable doubt is required to substantiate the charge of being intoxicated. If a Judicial Officer attends the Court in a drunk and intoxicated state and the Court staff and lawyers are stating in one voice that the petitioner was, in fact, intoxicated, uncontrolled and out of his senses on the date on incident they cannot be disbelieved only for want of medical evidence of intoxication.

10. Having seen the record there is absolutely no reason to find any fault with the finding recorded by the Enquiry Officer and the acceptance of the report by the Disciplinary Authority. In view of nature of charges against a Judicial Officer the penalty of dismissal from service does not appear to be disproportionate to the gravity of charge.
11. As a sequel, the writ petition, *sans substratum*, is liable to be and is hereby dismissed, leaving the parties to bear their own cost(s).

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri