

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUROrder Reserved on 30.01.2020Order Delivered on 15.09.2020WPS No. 6023 of 2008

1. Pardeshi Ram Bhoi, aged about 47 years, S/o Shri Sadhu Ram Bhoi, Presently Working As Junior Superintendent, At Pandit Ravishankar Shukla University Amanaka, G.E. Road Raipur R/o Pandit Ravishankar Shukla Campus Raipur CG.

---- Petitioner

Versus

1. Pandit Ravishankar Shukla University, Raipur through its Registrar, Amanaka, G.E. Road, Raipur C.G.

---- Respondent

For Petitioner :- Shri Anurag Jha, Advocate

For Respondent :- Shri Neeraj Choubey, Advocate

Shri Girishkant Pandey, Registrar, Pt. Ravishankar Shukla University is present in the Court.

Per ***Prashant Kumar Mishra, J.***

1. Challenge in this writ petition is to the order dated 16.10.2008 (Annexure P/1) imposing penalty of compulsory retirement on the petitioner who was working as Junior Superintendent in the respondent - Pandit Ravishankar Shukla University, Raipur (henceforth 'the University').
2. Facts of the case, as appearing from the material, are that the petitioner was suspended and departmental enquiry was

ordered against him by order dated 03.01.2008 (Annexure P/2). The charge memo and list of witnesses were served on the petitioner vide Annexure P/3 dated 12.02.2008.

3. **The first charge** was about depositing of examination form and examination fees of Rs.95,400/- by St. Vincent Palloti College, Kapa, Raipur for BBA first semester, third semester and fifth semester examination, which was forwarded by the petitioner and accepted by the University on 26.11.2007. **The second charge** was for not seeking prior permission of the University before accepting the examination form from the banned college. **The third charge** was for accepting BBA first semester examination form of 46 regular students and 25 ATKT supplementary students and allotting roll number by issuing admit card without informing the departmental officer/Superintendent. **The fourth charge** was for trying to accord undue benefit to the college and by making illegal use of the seal of the University.
4. The petitioner submitted reply to the charges vide Annexure P/4 stating that the first charge is only description of some facts without making any allegation on him. He denied the other charges stating that he was never informed by the University authorities that prior permission is required before accepting the examination forms from the college. The University has never issued any formal order or notification in this regard. The petitioner also stated that he has never misused the seal of the University because it is long prevailing practice of the University to affix seal of the Deputy Registrar.

5. According to the petitioner, the charges are vague without mentioning as to which part of the conduct rules have been violated. Allegation regarding providing undue benefit to the college was also denied by categorically stating that on 01.02.2008 the University allowed the students of St. Vincent Pallotti College to appear in the examination, therefore, acceptance of examination forms and examination fees by the petitioner has not tarnished the reputation of the University.
6. In the departmental enquiry, the proceedings of which have been filed as Annexure P-6, the petitioner was examined first and thereafter the Presenting Officer adduced the evidence and undated enquiry report was submitted, a copy of which has been filed by the petitioner before this Court on 11.02.2019. The enquiry officer found charge No.1 to be proved and the charge Nos.2, 3 & 4 not proved.
7. It is argued by the learned counsel appearing for the petitioner that recording of statement of the delinquent prior to the recording of department's witness is in violation of principles of natural justice. It is also argued that when the charge Nos.2, 3 & 4 are not proved there can be no penalty on the petitioner because the charge No.1 relates to statement of some facts without attributing any motive or violation of any rules or regulations or conduct rules.
8. *Per contra*, learned counsel appearing for the University argued that compulsory retirement is not a punishment, therefore, no interference is called for.
9. Before proceeding to deal with the issue as to whether the proving of charge No.1 alone would call for penalty against

the petitioner this Court would refer the order passed by the Division Bench of this Court in WPC No.831 of 2008 (St. Vincent Palloti College v. State of Chhattisgarh & Ors.) and other connected matter (decided on 23.07.2008). In the said writ petition challenge was to the University's action of imposing ban on admission, cancelling the examination of the students of the said petitioner's college and imposing some other ban for admitting students into different semesters. Challenge was to the University's order dated 01.02.2008 under which the University imposing ban on admitting students for non-compliance of Statute No.28. The Division Bench allowed the writ petition; quashed the order dated 01.02.2008; and directed the University to consider admission of students for the academic session 2007-08.

10. From the judgment rendered by the Division Bench of this Court, it clearly appears that the charge that despite ban by the University the petitioner accepted the examination form and examination fee of the St. Vincent Palloti College no longer survives. Moreover charge No.1 only stated the fact of accepting examination form and examination fee on behalf the University and depositing the same in the finance department of the University. It did not refer to violation of any conduct rules or elaborate as to how such acceptance was illegal. When the charge Nos.2, 3 & 4 relating to violation of the orders issued by the Deputy Registrar or the Registrar have been found not proved. Mere acceptance of examination form and examination fee and depositing the same in the University by itself would not constitute any misconduct and more so when the University's action of imposing ban which ignited the whole issue has been declared as illegal by the

Division Bench of this Court.

11. For the reasons stated hereinabove, the impugned order dated 16.10.2008 (Annexure P-1) is quashed. The petitioner would be entitled for all consequential benefits meaning thereby that he will be entitled for the entire salary from the date of suspension till the date he is allowed to join the service pursuant to this order along with interest at the rate of 9% per annum.
12. As a sequel, the writ petition is allowed, leaving the parties to bear their own cost(s).

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri