

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2694 of 2020**

- Krishna (Prasad) Kushwaha S/o Shri Bechanram Kushwaha Aged About 27 Years Computer Operator (Mid Day Meal), Office Of Block Education Officer, Bhaiyathan, District Surajpur Chhattisgarh, R/o Village Durati, Tahsil Pratappur, District Surajpur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Director Directorate Of Public Education, Indrawati Bhawan, Atal Nagar, Naya Raipur, Chhattisgarh, Raipur Chhattisgarh.
3. Divisional Joint Director Public Education, Division, Surguja, Ambikapur, District Surguja Chhattisgarh.
4. Collector Surajpur, District Surajpur Chhattisgarh.
5. District Education Officer Surajpur, District Surajpur Chhattisgarh

---- Respondents

For Petitioner	:	Smt. Meena Shastri, Advocate
For Respondent/ State	:	Shri Amrito Das, Addl A.G.

Hon'ble Shri Justice Goutam Bhaduri**Order****14/07/2020**

Heard.

1. Learned counsel for the petitioner would submit that the petitioner has been suspended by order dated 11.06.2020 (Annexure P-1) by the Divisional Joint Director, Public Education. It is contended that the petitioner since was appointed under the C.G. Work-charged and Contingency paid employee (Recruitment and Conditions of Service),

Rule 1975, therefore the petitioner cannot be suspended. Furthermore, it is contended that as per column 4 the notification of the State dated 13.11.2019, the Divisional Joint Director Public Education can only impose minor punishment in respect of Class-II employees. It is further stated that in the pandemic period as per para 5 of the notification of the State dated 21.03.2020 (Annexure P-3) the services of the government employee can not be dispensed-with or service break should not be given or any consequent deduction in the salary cannot be made. Therefore, Annexure P-1 is without jurisdiction.

2. Learned State counsel opposes the arguments and would submit that as per Clause 4 & Clause 8 of the notification dated 13.11.2019 (Annexure P-2) the power of suspension is also vested with the Divisional Joint Director Public Education, and further submit that the nature of allegation on which the petitioner has been suspended no relief can be granted to the petitioner.
3. Perused the order of suspension dated 11.06.2020 (Annexure P-1) . The petitioner was suspended for abusing & assaulting the higher officials. Para 8 of the notification dated 13.11.2019 (Annexure P-2) purports that the Divisional Joint Director Public Education is vested with the power to pass order of suspension in respect of the Class III & IV employees. Therefore, the submission of the petitioner that only minor punishment can be awarded by the Divisional Joint Director Public Education to Class II employee and not the suspension cannot be appreciated. Further Annexure P-3 the notification of the State dated 21.03.2020 is an direction not to dismiss any person from the

service issued to the different private employers. The object of the letter dated 21.03.2020 is entirely on a different premises. It appears that the petitioner was suspended for the reason that he has abused & assaulted the higher officials. This act of the petitioner for all logic cannot be accepted that even after abusing and assaulting the higher officials, no disciplinary action can be taken against the government employee. Annexure P-2 dated 13.11.2019 also purports that the Divisional Joint Director Public Education is vested with the power to suspend the Class III & IV employees and lastly Annexure P-3 direction given by the State dated 21.03.2020 would not be applicable to the case of the petitioner and it cannot be accepted that despite committing all the misconduct the petitioner can claim immunity from any contemplated disciplinary actions. Furthermore, the suspension being not a punishment any interference by this Court at this stage would amount to usurping the power of State. It is the prerogative of the employer to suspend the employee if some misconduct is committed. Therefore, under the circumstances I am not inclined to interfere with this order of suspension.

4. Accordingly, the petition sans merit is liable to be and is hereby dismissed.

Sd/-
Goutam Bhaduri
Judge