

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 53 of 2018

1. State Of Madhya Pradesh Through The Secretary, Ministry Of Revenue, Vallabh Bhawan, Bhopal (M.P.), District : Bhopal, Madhya Pradesh
2. The Public Service Commission Through Its Secretary, Indore (M.P.)
3. The Commissioner Jabalpur Division Jabalpur (M.P.)

---- Petitioners

Versus

1. Chandra Pal Singh Tanwar S/o Shri Lalsingh Tanwar Aged About 70 Years R/o Gondpara, District Bilaspur, Chhattisgarh
2. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, District : Raipur, Chhattisgarh

---- Respondents

For Petitioner/s	:	Mr. Prafull N. Bharat, Advocate.
For Respondent No.1	:	Mr. Vinod Deshmukh, Advocate.
For State/Respondent No.2	:	Mr. Alok Bakshi, Additional A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/01/2020

Heard.

1. There is an application for review and recall of order dated 23.11.2016 passed in WPS No.429/2005.
2. Learned counsel for the State of Madhya Pradesh would argue that on the date when the case was heard and orders were passed, State of Madhya Pradesh was not represented through their counsel and therefore, it could not be brought to the notice of the Court that, in fact, there was no further departmental enquiry nor any order for removal from service passed against the respondent employee on 29.01.1990. Learned counsel would submit that the order of this Court would proceed on this assumption that the respondent employee was already removed from service on 29.01.1990 by way of penalty imposed in another departmental enquiry, which is factually not correct as there was no other departmental enquiry nor any order of removal.
3. Learned counsel for the respondent employee, however, would submit that

though specific ground was taken by the respondent employee in his petition that he having been removed from service on 29.01.1990, could not be removed again, no specific reply was given and even at the time of hearing of the case, this fact which has now been stated before this Court was not disclosed. He would submit that in that view of the matter, order dated 29.01.1990 has rightly been held illegal.

4. I have heard learned counsel for the parties. This Court is of the view that order dated 23.11.2016 is required to be recalled as the respondent employee does not dispute this factual position that he did not face any other departmental enquiry nor any order was passed on 29.01.1990 removing him from service. The factual assertion by the applicant herein is supported with the copy of order 29.01.1990 which in fact relates to some other employee A.K. Tiwari, Tahsildar Hata and not the petitioner in the writ petition/respondent herein. This Court is left with no option but to recall order dated 23.11.2016 passed in WPS No.429 of 2005 because that order proceeded on the premise that the petitioner/respondent stood already removed from service by way of imposition of penalty or removal passed on 29.01.1990 which is factually not correct.
5. In the result, application is allowed, order dated 23.11.2016 is hereby recalled and the writ petition (WPS No.429 of 2005) is restored to its original number.

Sd/-
(Manindra Mohan Shrivastava)
Judge