

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4652 of 2020**

1. Shubh Narayan Pathak S/o Late Narsingh Pathak Aged About 62 Years Executive Engineer (Retrd.), Gramin Yantriki Seva Mandal, R/o Village Devnandan Nagar, Phase 1, Sepat Road, Tahsil And District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralay, Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh
2. The Chief Engineer Rural Engineering Services, Panchayat And Rural Development, Raipur Chhattisgarh.
3. The Joint Secretary Rural Engineering Services, Panchayat And Rural Development, Raipur Chhattisgarh

---- Respondents

For Petitioner : Shri Kishore Bhadur, along with Shri Pankaj Singh, Advocates.

For State : Shri Rahul Jha, G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03.12.2020**

1. The present writ petition is challenging the impugned order Annexure P/1 dated 08.05.2018. Vide the said impugned order, the respondents/State have modified their earlier order 04.01.2018 to the extent of treating the petitioner to be placed under suspension w.e.f from 04.01.2018 instead of 08.11.2017.
2. It is pertinent to mention that the petitioner in the course of working as an Executive Engineer under the respondents got implicated in a case under the provisions of section 13(1)e and 13(2) of the Prevention of Corruption Act, 1988 and a criminal case in this regard is already pending before the concerned Court at Bilaspur and the chart-sheet in

the said criminal case has already been filed on 08.11.2017.

3. Considering the fact that the petitioner has been charge sheeted in a case under the Prevention of Corruption Act, the respondents have passed an order on 04.01.2018 placing the petitioner under suspension w.e.f. the date the charge-sheet was issued that is from 08.11.2017 onwards.
4. The contention of the petitioner was that between 08.11.2017 to 04.01.2018, the petitioner in-fact has discharged his normal duties and for the period that he has performed his duty, he could not have been placed under suspension with a retrospective effect. The petitioner in this regard had preferred a writ petition in 2018 vide WP(S) 1836 of 2018. The said writ petition was finally disposed of on 14.08.2018 directing the respondent-authorities to consider the judicial pronouncements laid down by the different High Courts on this issue whether an employee could be placed under suspension with a retrospective effect particularly when he has discharged his duty during the said period and a suitable order be passed. The specific relief sought for by the petitioner in the said representation was that the order of suspension can only be prospective i.e. from the date the order of suspension was issued which in that case was 04.01.2018.
5. In the light of the order of this Court in the aforesaid writ petition i.e. WP(S) 1836/2018, the respondent-authorities subsequently have reconsidered the order dated 04.01.2018 and have modified it by the impugned order in the present writ petition dated 08.05.2018 modifying the earlier order of 04.01.2018 to the extent that the

petitioner would be treated to be placed under suspension w.e.f. 04.01.2018 instead of 08.11.2017.

6. It is this order dated 08.05.2018 which is now under challenge in the present writ petition. In the present writ petitioner, the stand of the petitioner now is that the order of modification to the order dated 04.01.2018 is also bad in as much as for all practical purposes, the petitioner has to be treated to have been in service till 08.05.2018 and he could have been placed under suspension only w.e.f. 08.05.2018 not from 04.01.2018.
7. This contention of the learned counsel of the petitioner is not acceptable or nor is it sustainable for the simple reason that admittedly the petitioner has been charge-sheeted for an offence under involving the PC Act. The charge-sheet has been submitted in the Court on 08.11.2017 when this fact was taken note of by the employer that they placed the petitioner under suspension on 04.01.2018 and since then the petitioner has been under suspension. That even in the light of the order passed by this Court in WPS No. 1836/2018 from 04.01.2018 to 08.05.2018, the petitioner has not discharged his duties and he was for all practical purposes treated to be placed under suspension. In the back-drop of the order passed by this Court and the judicial pronouncements, the respondents have modified the earlier order dated 04.01.2018 to the extent of giving the order of suspension a prospective effect i.e. from 04.01.2018 that is the date when the first order of suspension was passed.
8. This Court does not find any illegality or arbitrariness on the part of the respondent in passing the impugned order dated 08.05.2018

modifying the earlier order.

9. Another reason for which this Court is not inclined to entertain the writ petition is on the ground of delay. The said order was passed on 08.05.2018 and the present writ petition now is being filed on 20.10.2020 after about two and half years time.
10. The contention of the petitioner that after crossing the age of superannuation, he had gone to his native place therefore he was not able to pursue his legal remedies, this is not a satisfactory explanation for condoning the delay that has arisen.
11. For all the aforesaid reasons, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned order i.e. 08.05.2018. The writ petition accordingly stands rejected.

**Sd/-
(P. Sam Koshy)
Judge**