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HIGH COURT OF CHHATTISGARH BILASPUR**Judgment reserved on 27.11.2019****Judgment delivered on 13.02.2020****Writ Appeal No. 382 of 2019**

(Arising out of order dated 15.05.2019 passed in Writ Petition (S) No.2656 of 2019 by the learned Single Judge)

K. N. Fulzele S/o Late Shri S. L. Fulzele, Aged About 61 Years, Deputy Director Industries Udyog Bhawan, Ring Road No. 1 Telibandha Raipur Chhattisgarh.

---- Appellant**Versus**

Under Secretary (Shri P. D. Dohre) Commerce and Industries Department Govt. of Chhattisgarh, Mahanadi Bhawan, Naya Raipur, Raipur Tahsil and District Raipur Chhattisgarh.

---- Respondent

For Appellant : Shri V.G. Tamaskar, Advocate.

For Respondent/State : Shri Sudeep Agrawal, Deputy Advocate General

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

C A V Judgment**Per Parth Prateem Sahu, Judge**

1. Challenge in this appeal is to the order dated 15.05.2019 passed in Writ Petition (S) No.2656 of 2019 whereby the relief sought for by the Appellant for quashing of enquiry report dated 14.06.2018 has been rejected by the learned Single Judge.

2. The case of the Appellant is that he is working on the post of Deputy Director (Industries), Government of Chhattisgarh, which is a Class-I Gazetted Officer post, but he has been suspended by the Respondent and also issued charge-sheet

under his signature, who is not competent being an employee of Cadre below the Appellant.

3. Shri V.G. Tamaskar, learned counsel appearing for the Appellant submits that contents of the enquiry report shows that the Appellant has not committed misconduct which can attract major penalty. He further submits that as the enquiry report does not contain any merit showing misconduct resulting into major penalty, the enquiry report be quashed.

4. Per contra, Shri Sudeep Agrawal, learned Deputy Advocate General representing the State submits that writ petition filed by the Appellant is premature. It is pointed out that the relief sought by the Appellant in this writ appeal is based on the contents of the enquiry report. The Appellant has already submitted his reply/representation to the findings arrived at by the Enquiry Officer in its enquiry report and the same is pending consideration before the competent Authority i.e. Disciplinary Authority for its consideration. He also pointed out that at this stage no relief can be granted to the Appellant.

5. We have heard learned counsel appearing for the parties and perused the record.

6. The issuance of suspension order as well as charge-sheet was challenged by the Appellant in Writ Petition (S) No.5384 of 2014, which was dismissed by the learned Single Judge and the appeal preferred by the Appellant against the said order

being Writ Appeal No.374 of 2019 is also dismissed by this Court.

7. The Appellant in Writ Petition (S) No.2656 of 2019, which is subject matter of this instant appeal has sought relief based on the enquiry report on the ground that the contents of the enquiry report does not reflect that the Appellant has committed misconduct which may result in major penalty. The sole ground taken by the Appellant in paragraph-9 of the writ petition is on the merit of the enquiry report, which is reproduced below for ready reference :

“9. That from a perusal of facts stated above it would be evident that the petitioner has not committed any serious-mis conduct for which MAJOR PENALTY can be imposed by concerned DISCIPLINARY AUTHORITY.”

8. The ground raised by the Appellant in paragraph-9 of the writ petition is that the Appellant has not committed any “serious misconduct” culminating into “major penalty”. It is settled law that the enquiry report submitted by the Enquiry Officer before disciplinary authority cannot be scrutinized and evaluated by the writ Court, but it is for the Disciplinary Authority who is an authority competent to consider the enquiry report as well as the reply/representation to the notice on enquiry report and to pass appropriate order. The action required to be taken by the Disciplinary Authority on the enquiry report and passing order is in his exclusive domain.

9. The other technical pleas which the Appellant has raised in another Writ Appeal No.374 of 2019 arising out of Writ Petition (S) No.5384 of 2014 has already been considered and the appeal has been dismissed.

10. For the foregoing reasons, as the enquiry report submitted by the Enquiry Officer is pending consideration on the date of filing of the writ petition as well as the writ appeal before the Competent Authority and reply/representation to the enquiry report is also submitted by the Appellant before the Disciplinary Authority on 01.11.2018. Court cannot substitute itself as a Disciplinary Authority so as to reach any conclusion.

11. The reasoning assigned by the learned judge for declining to grant relief as sought for in writ petition was within four walls of law. The appeal being devoid of any substance which is liable to be and is hereby dismissed.

Sd/-
(P. R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge