

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5376 of 2020**

Kritesh Kumar Gendre S/o Shri Sukhcharan Gendre, Aged About 34 Years R/o Village Arjunda, Nagar Panchayat Arjunda, Ward No. 6, Block Gunderdehi, District Balod Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Energy, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. The Chief Executive Officer, CREDA, Head Office, VIP (Airport Road), Near Urja Siksha Udyan, Village Fundhar, Post Devpuri, Raipur, District Raipur Chhattisgarh
3. The Chief Engineer, CREDA, Head Office, VIP (Airport Road), Near Urja Siksha Udyan, Village Fundhar, Post Devpuri, Raipur, District Raipur Chhattisgarh
4. The Superintendent Engineer, CREDA, Head Office, VIP (Airport Road), Near Urja Siksha Udyan, Village Fundhar, Post Devpuri, Raipur, District Raipur Chhattisgarh
5. The District Incharge CREDA District Office Sukma, District Sukma (Chhattisgarh)
6. M/s Kaho B-69, Sector-57, Noida 201301 (Uttar Pradesh)
7. The Sarpanch Village Panchayat Mukram, Janpad Panchayat Konta, District Sukma (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. Mayank Chandrakar, Advocate
For State	:	Ms. Akanksha Jain, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/12/2020**

1. The present is a second round of litigation.
2. The main reliefs sought for by the petitioner in the present writ petition are as under:

10.2] To issue an appropriate writ or order and direct the respondents authorities to allow the petitioner to resume his

service as Sub Engineer CREDA District Office Sukma, District Sukma, Chhattisgarh.

10.3] To issue an appropriate writ or order and to declare the action on the part of the respondents authorities illegal, arbitrary, malafide and bad in the eye of law and also direct the respondents authorities to act as per the directions issued in WPS No. 3433/2020 within a period of 15 days.”

3. What has to be appreciated at this juncture is that the petitioner on account of certain alleged misconduct of irregularity and illegality in the course of discharging his duties was issued with a show cause notice on 09.07.2020. The initiation of show cause proceedings was subjected to challenge before the High Court vide WPS No. 3433/2020. The High Court vide order dated 26.08.2020 had disposed of the said writ petition with the following directions:

“3. Perused the documents. In the show cause notice dated 09.07.2020 (Annexure P/1), it is contended that out of 130 solar lights which were to be installed 87 were found to be in non-working condition and the actual installation of the lights were of number 122. In any case this is a disputed question of facts. As it would reveal from the document that the petitioner has filed the reply to the show cause notice vide Annexure P/11, it is directed that the respondent No. 3 (The Chief Engineer, CREDA) who had issued the notice (Annexure P/1) would give an opportunity of hearing to the petitioner and thereafter shall pass the appropriate orders after verification of facts. At this stage the present writ petition, since being filed against the show cause notice, is premature.”

4. Pursuant to which the petitioner has approached the respondents and has submitted his detailed representation and the respondents have also pursuant to the information given by the petitioner has again sought for certain queries and further information. Pending the said proceedings in progress the petitioner has filed the present writ petition seeking for relief from this Court by way of issuance of a writ directing the respondents to take back the petitioner in service as a contractual employee for the balance of the contract period that the petitioner has.

5. At the outset, this Court is of the opinion that such a relief cannot be granted by this Court in exercise of its writ jurisdiction given the aforesaid factual backdrop, more particularly when the show cause proceedings itself has been permitted to be continued by the High Court in WPS No. 3433/2020, which was disposed of on 26.08.2020 unless the show cause proceeding reaches to a logical conclusion. The petitioner as such may not be able to get an indefeasible right to come back in service if the respondents have chosen not to keep him in the employment in the given facts and circumstances of the case.
6. Considering the fact that substantial nature of appointment of the petitioner was contractual the respondents authorities are expected to take a decision at the earliest before the culmination of the contractual period itself.
7. The writ petition thus being devoid of merits deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved