

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 7405 of 2009**

Kamal Narayan Upadhyay S/o Late Shri Raj Narayan Upadhyay, Aged about 42 years, R/o Vinoba Bhave Nagar, New Durga Mandir, Kushalpur, Raipur, Chhattisgarh.

---Petitioner**Versus**

1.State of Chhattisgarh, Through the Secretary, Department of Home Affairs, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.

2.Superintendent of Police, Railways, Raipur, Chhattisgarh.

--- Respondents

For Petitioner :- Mr. Varun Sharma, Advocate
For State :- Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board (Through Video Conferencing)****13/07/2021**

1.The petitioner herein calls in question legality, validity and correctness of order dated 25/02/2008 (Annexure P/1) by which respondent No. 1 State Government has dismissed the appeal preferred by the petitioner against his order of dismissal finding no merit.

2. Mr. Varun Sharma, learned counsel for the petitioner, would make a solitary submission that the petitioner being a Constable was dismissed from service by order dated 30/08/2005 (Annexure P/2) passed by respondent No. 2 Superintendent of Police, Railways and against the said order of his dismissal, the appeal would lie to the D.I.G./I.G. in view of Regulation 262 of the Police Regulations, however, the appeal was heard by the State Government which is an incompetent authority and even the State Government has not considered the appeal in accordance with Rule 27(2) of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966, as such, the impugned order deserves to be set aside.

3. Mr. Ravi Bhagat, learned counsel for respondents/State, would support the impugned order.

4. I have heard learned counsel for the parties at length.

5. It is not in dispute that petitioner was dismissed from service by order dated 30/08/2005 (Annexure P/2) passed by respondent No. 2 Superintendent of Police, Railways and according

to Regulation 262 of Police Regulations, the appellate authority would be D.I.G./I.G., therefore, petitioner's appeal could not have been heard by the State Government being the incompetent authority and the appeal ought to have been heard in accordance with Rule 27(2) of the Rules of 1966.

6. Since the appellate authority under Regulation 262 of Police Regulations is D.I.G./I.G., the impugned order (Annexure P/1) passed by the State Government dismissing petitioner's appeal is wholly incompetent and accordingly, it is hereby set aside. Petitioner's appeal is restored for hearing and disposal before the concerned D.I.G./I.G. being the competent appellate authority in accordance with law after hearing the parties within 60 days from today. The petitioner is at liberty to file additional submission in support of his appeal within 15 days from today.

7. With the aforesaid direction, this writ petition stands disposed of. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge