

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 1744 of 2013**

Suresh Kumar Soni, S/o Shri B.P. Soni, Aged about 52 years, Working as Executive Engineer, O/o Superintending Engineer (HRD), CSPGCL, Korba West, P.S. Darri, Distt. Korba, Chhattisgarh.

---Petitioner

Versus

1. Chhattisgarh State Power Holding Company Limited, Through its Managing Director, Vidyut Sewa Bhawan, Dangania, Raipur, PO Sunder Nagar, PS Saraswati Nagar, Distt. Raipur, Chhattisgarh 492013.
2. Chief Engineer (GEN), Chhattisgarh State Power Company Limited, Korba West, Distt. Korba, Chhattisgarh.
3. Chief Engineer (HR), Chhattisgarh State Power Generation Company Limited, Raipur, Chhattisgarh.
4. Deputy General Manager (IR) Chhattisgarh State Power Holding Company Limited, Raipur, Chhattisgarh.
5. O.P. Khandelwal, Presently Working as Additional General Manager, Chhattisgarh State Power Holding Company Limited, Raipur, Chhattisgarh.

---Respondents

For Petitioner :- Mr. Vinod Deshmukh, Advocate

For Respondents :- Ms. Veena Nair, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

27/09/2021

1. Invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner herein has called in question order dated 03/05/2012 (Annexure P/1A) rejecting his representation dated 09/03/2006 for expunging adverse remarks in his service records communicated for the years 2003-04 and 2004-05.
2. Mr. Vinod Deshmukh, learned counsel for the petitioner, would submit that the order dated 03/05/2012 passed by the respondent authorities rejecting petitioner's representation is contrary to the law laid down by the Supreme Court in the matter of **Dev Dutt v. Union of India**¹, as such, the order impugned is liable to be set aside.
3. Ms. Veena Nair, learned counsel for the respondents, would support the impugned order and submit that the instant writ petition deserves to be dismissed.
4. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

¹ (2008) 8 SCC 725

5. It is well-settled law that the representation made against adverse remarks has to be decided by the competent authority by passing a reasoned and speaking order within a reasonable time.

6. In the matter of Dev Dutt (supra), Their Lordships have held in paragraph 37 as under :-

"37. We further hold that when the entry is communicated to him the public servant should have a right to make a representation against the entry to the concerned authority, and the concerned authority must decide the representation in a fair manner and within a reasonable period. We also hold that the representation must be decided by an authority higher than the one who gave the entry, otherwise the likelihood is that the representation will be summarily rejected without adequate consideration as it would be an appeal from Caesar to Caesar. All this would be conducive to fairness and transparency in public administration, and would result in fairness to public servants. The State must be a model employer, and must act fairly towards its employees. Only then would good governance be possible."

7. Reverting to the facts of the case in light of the aforesaid principle of law laid down by Their Lordships of the Supreme Court in the matter of Dev Dutt (supra), it is quite vivid that by impugned order dated 03/05/2012 (Annexure P/1A) nothing has been considered by the respondent authorities. It nowhere appears that any of the points raised the representation has been considered by the respondent authorities while rejecting the said representation filed by the

petitioner and a very unreasoned and non-speaking order has been passed. Accordingly, the impugned order, being contrary to the principle of law laid down by Their Lordships of the Supreme Court in the matter of Dev Dutt (supra), is hereby quashed and matter is remitted to respondent No. 3 to consider and decide petitioner's representation afresh by passing a reasoned and speaking order within 45 days from the date of receipt of a copy of this order. Petitioner is at liberty to make additional representation within two weeks. It is made clear that this Court has not expressed any opinion on the merits of the matter.

8. The writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet