

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 535 of 2021**

Satish Kumar Nair S/o Late G.N. Nair Aged About 51 Years Presently Working As Inspector, Legal Metrology Department (Earlier Known As Weight And Measures Department), R/o Kabir Nagar, Raipur, Tahsil And District Raipur (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Food And Civil Supplies, Mahanadi Mantralaya, Naya Raipur, Atal Nagar. Post Office And Police Station Naya Raipur, Atal Nagar, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
2. Controller Legal Metrology, Chhattisgarh, Indrawati Bhawan, Block-Ii, 3rd Floor, Naya Raipur, Atal Nagar. Post Office And Police Station Naya Raipur, Atal Nagar, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
3. Deputy Controller Legal Metrology, Chhattisgarh, Indrawati Bhawan, Block-Ii, 3rd Floor, Naya Raipur, Atal Nagar. Post Office And Police Station Naya Raipur, Atal Nagar, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
4. Assistant Controller Legal Metrology Department, B-16, Sec-2, Agroha Colony, Raipur (Chhattisgarh), District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Rajnish Singh Baghel, Advocate
For State	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****11/02/2021**

1. The challenge in the present writ petition is the disciplinary action which has been initiated against the petitioner.
2. The contention of the petitioner is that the petitioner was earlier placed under suspension on 07.11.2020 and later on the order of suspension was revoked vide order dated 28.11.2020. Immediately

thereafter the respondents have further issued a charge-sheet to the petitioner on 23.12.2020 (Annexure P/1).

3. According to the petitioner, the charge-sheet has been issued antedated, when the authorities came to know that in writ petition that the petitioner has preferred before the High Court i.e. WPS No. 5518/2020, there was some observations made by the Court on an interim application moved by the petitioner. The further grievance of the petitioner is that the charge-sheet has been issued quoting a wrong provision under the Service Rules governing the field and therefore the same would not be sustainable. It was the further contention of the petitioner that the petitioner has not been given an opportunity to reply to the charge-sheet and before giving an opportunity of reply or considering the reply that the petitioner intends to file, the authorities in a predetermined manner along with a charge-sheet had also issued an order dated 23.12.2020, so far as appointment of Inquiry officer and Presenting Officer is concerned. This according to the petitioner is a clear violation of the Rules of 14 of the Civil Services (Classification, Control & Appeal) Rules, 1966, which lays down the procedure under which the disciplinary proceedings have to be undertaken.
4. This Court at this juncture would not like to interfere with the charge-sheet which has been issued to the petitioner, however it would like to hold that under the aforesaid Rules of 1966 there is a procedure which has been prescribed, so far as the procedure to be followed before imposing of penalties and under the said Rules it clearly envisages that the Disciplinary Authority would be first issuing with a

charge-sheet to the delinquent and call upon his explanation and only in the event of the explanation being unsatisfactory would there be a requirement for proceeding further with the disciplinary action and it is thereafter that the Disciplinary Authority shall appoint an Inquiry officer and Presenting Officer.

5. In the instant case such a procedure seems to be skipped by the authorities concerned and they have straight away appointed an Inquiry officer and Presenting Officer for holding a departmental enquiry against the petitioner. For ready reference Sub-rules 3, 4 & 5 of Rule 14 of Civil Services (Classification, Control & Appeal) Rules, 1966 is reproduced herein under:

“14. Procedure for imposing penalties. -

(1) xxxxxxxxx

(2) xxxxxxxxx

(3) Where it is proposed to hold an inquiry against a Government servant under this rule and Rule 15, the disciplinary authority shall draw up or cause to be drawn up-

(i) the substance of the imputation of misconduct or misbehaviour into definite and distinct articles of charge;

(ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain :-

(a) a statement of all relevant facts including any admission or confession made by the Government servant;

(b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the article of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which article of charge is proposed to be sustained and shall require the Government servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

(5)(a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted or, if it considers it necessary so to do, appoint, under sub-rule (2), an inquiring authority for the purpose; and where all the articles of charges have been admitted by the Government servant in his written statement of the defence the disciplinary authority shall record its finding on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15;

(b) If no written statement of defence is submitted by the Government servant, the disciplinary authority may itself inquire into the articles of charge or may, if it considers it necessary to do so, appoint, under sub-rule (2), an inquiring authority for the purpose;

(c) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint a Government servant or a legal practitioner, to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge."

6. Given the aforesaid statutory legal position as it stands, this Court is of the opinion and it is accordingly directed that, let the matter be placed again before the Disciplinary Authority, who in turn shall provide a suitable period of time for the petitioner to explain or give reply to the charge-sheet (Annexure P/1) which has been issued to the petitioner. The Disciplinary Authority thereafter shall duly consider the reply/explanation that the petitioner shall submit to the charges leveled against him and thereafter take a decision as to whether the Disciplinary Authority is satisfied with the explanation provided and only in case if he is not satisfied with the explanation he may order for proceeding further with the disciplinary action.
7. Given the aforesaid directions to the Disciplinary Authority, this Court as of now directs the respondents to keep the order dated 23.12.2020 so far as appointment of the Inquiry officer and Presenting Officer is concerned in abeyance and the same shall be acted upon only after the Disciplinary Authority takes a suitable

decision on the reply that the petitioner shall submit to the charge-sheet that has been made.

8. Counsel for the petitioner makes a submission that along with the charge-sheet he has also not been provided with the necessary list of witnesses and the documents, it goes without saying that a delinquent employee is entitled for the list of witnesses and the list of documents which the Department intends to rely upon in the course of the departmental enquiry. The Disciplinary Authority is expected to take necessary steps in this regard.
9. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved