

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.3120 of 2016

- Nawish Kesharwani, S/o Late Shri D.P. Kesharwani, Aged About 52 Years, Sub Engineer (Terminated), Guru Ghasidas Central University, Bilaspur, R/o M.I.G. 64, Nehru Nagar, Bilaspur, Chhattisgarh

----- Petitioner

Versus

1. Guru Ghasidas Central University, Bilaspur Through its Registrar Guru Ghasidas Central University, Bilaspur, Chhattisgarh
2. Executive Council (Appellate Authority), Through its Chairperson, Guru Ghasidas Central University, Bilaspur, Chhattisgarh
3. Dr. Harish Kumar, Enquiry Officer, Aged About 55 Years, Working as Reader M.B.A. Department, Guru Ghasidas Central University, Bilaspur, Chhattisgarh
4. P. K. Bajpai, Aged About 53 Years, Professor (Physics Department) Member of Executive Council, Guru Ghasidas Central University, Bilaspur, Through Its Registrar, Guru, Ghasidas Central University Bilaspur, Chhattisgarh

----- Respondents

For Petitioners	Mr. Sourabh Sharma, Adv
For Respondent Nos.1 & 2	Mr. Anuroop Panda, Adv

Hon'ble Justice Shri Sanjay K. Agrawal

Order On Board

22/06/2021

1. The petitioner by way of the present petition is challenging the legality, validity and the propriety of the resolution dated 16.05.2016 passed by the Executive Council, Guru Ghasidas University conveyed to the petitioner vide memo dated 17.05.2016 (Annexure-P/1) and the order dated 07.03.2012 (Annexure-P/2), whereby the petitioner's services have been terminated.
2. Mr. Sourabh Sharma, learned counsel for the petitioner, would submit that in view of the decision rendered by this Court on 03.07.2015 in WPS No.5594/2012, a statutory appeal under Section 35 of the Central University Act, 2009 was preferred before the Executive Council, which has been dismissed without assigning any cogent reason and without considering the contention raised by the petitioner, which is *per se* illegal and contrary to law.
3. Mr. Anuroop Panda, learned counsel for the respondent Nos.1 & 2, would support the

impugned order and would submit that the appeal will be decided by a reasoned and speaking order.

4. I have heard learned counsel for the parties, considered their submissions made herein-above and also went through the records with utmost circumspection.
5. The petitioner preferred an appeal under Section 35 of the Central University Act, 2009, which has been rejected by the Executive Council vide resolution dated 16.05.2016 conveyed to the petitioner vide memo dated 17.05.2016 (Annexure-P/1). It appears from the order of the Appellate Authority that the Appellate Authority has only resolved to reject the appeal of the petitioner, but no cogent reason has been assigned. The Appellate Authority being the quasi judicial authority was required to pass a reasoned order dealing with the grounds raised in the appeal, which has not been done and the manner in which the Executive Council has passed the order, it

cannot be said that the Appellate Authority has applied its judicial mind to the contentions on behalf of the petitioner to approve the order of dismissal from service. The Appellate Authority is required to address each and every ground raised on behalf of the petitioner in the appeal and thereafter to decide the appeal by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioner. Accordingly, the resolution dated 16.05.2016 conveyed to the petitioner vide memo dated 17.05.2016 (Annexure-P/1) is hereby set aside. The matter is remitted back to the respondent Nos.1 & 2 to consider the appeal in accordance with law and to pass a reasoned and speaking order after providing opportunity of hearing to the petitioner within 2 months from the date of copy of receipt of this order.

6. Accordingly, the writ petition is allowed in part. No order as to cost (s).
7. The petitioner is at liberty to make

additional submission and file additional documents in support of the appeal before the Executive Council.

8. It is made clear that this Court has not expressed any opinion on the merits of the case.

Sd/-
Sanjay K. Agrawal
Judge

Nirala