

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 1203 of 2017**

J.S. Minj, S/o Late Jeevan Minj, Aged about 62 years, Posted as Assistant Superintendent (Land Record), Ambikapur, Distt. Surguja, Chhattisgarh.

---Petitioner

Versus

- 1.State of Chhattisgarh, through the Secretary, Revenue and Disaster Management Department, Mahanadi Bhawan, New Raipur, P.S. Rakhi, Distt. Raipur, Chhattisgarh.
- 2.The Commissioner, Surguja Division, Ambikapur, Distt. Surguja, Chhattisgarh.
- 3.The Director, Land Record, Chhattisgarh, Indravati Bhawan, First Floor, Block No. 2, New Raipur, Chhattisgarh.
- 4.The Collector (Land Record), Ambikapur, Distt. Surguja, Chhattisgarh.
- 5.The Deputy Collector, Ambikapur, Distt. Surguja, Chhattisgarh.

---Respondents

For Petitioner	:- Mr. Rahul Mishra, Advocate
For State	:- Mr. Avinash Singh, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

16/12/2021

- 1.By way of this writ petition, petitioner seeks to challenge the order impugned dated 08/12/2016

(Annexure P/1) by which respondent No. 5 has imposed major punishment of demotion upon the petitioner under sub-rules (v) and (vi) of Rule 10 of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966.

2.Mr. Rahul Mishra, learned counsel for the petitioner, would submit that no departmental enquiry has been conducted under Rule 14 of the Rules of 1966 before imposing major penalty upon the petitioner. He would also submit that since the Appointing Authority of the petitioner is the State Government, therefore, respondent No. 5 could not have taken any action against the petitioner by the impugned order.

3.Mr. Avinash Singh, learned State counsel, on perusal of the record would submit that despite imposition of minor punishment upon the petitioner, he continued to repeat his misconduct, therefore, respondent No. 5 has demoted the petitioner by the impugned order.

4.I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

5.Admittedly, petitioner has been inflicted with major penalty under sub-rules (v) and (vi) of Rule

10 of the Rules of 1966. Rule 14 of the Rules of 1966 provides that no order imposing any of the penalties specified in clauses (v) and (ix) of Rule 10 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and Rule 15 or in the manner provided by the Public Servants' (Inquiries) Act, 1850, where such inquiry is held under the Act. Rule 15 of the Rules of 1966 provides that the disciplinary authority if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 14 as far as may be.

6. As such, for inflicting major penalty under sub-rules (v) and (vi) of Rule 10 of the Rules of 1966, holding a departmental enquiry under Rule 14(i) of the Rules of 1966 is mandatory. Consequently, the impugned order dated 08/12/2016 (Annexure P/1) passed by respondent No. 5 imposing major penalty of demotion upon the petitioner under sub-rules (v) and (vi) of Rule 10 of the Rules of 1966 without holding departmental enquiry under Rule 14 of the Rules of 1966, being ex-facie and illegal, is liable to be and is hereby quashed.

7. Accordingly, the writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet