

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 831 of 2021

1. Pushpendra Singh S/o Shri Naresh Singh Aged About 34 Years R/o 13th Battalion, CAF, Bango, Korba, Police Station- Bango, Tahsil And District Korba (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Home/police, Mahanadi Bhawan, Mantralaya, Police Station And Post- Rakhi, Atal Nagar, Nawa Raipur, District - Raipur (Chhattisgarh)
2. Additional Director General Of Police (A.D.G.P.) Chhattisgarh Armed Force (C.A.F.), Police Headquarters (PHQ), Nawa Raipur, Police Station And Post- Rakhi, Atal Nagar, District- Raipur (Chhattisgarh)
3. Deputy Inspector General Of Police (D.I.G.P.) Chhattisgarh Armed Force (CAF, Office Of DIGP, Surguja Range, Ambikapur, Distt. Surguja (Chhattisgarh)
4. Commandant 13th Battalion, Chhattisgarh Armed Force (CAF), I.R Bango, Distt Korba (Chhattisgarh)
5. Deputy Commandant/Enquiry Officer 13th Battalion, Chhattisgarh Armed Force (CAF), I/R Bango, Distt Korba (Chhattisgarh)
6. Assistant Commandant / Enquiry Officer 13th Battalion, Chhattisgarh Armed Force (Caf), I/r Bango, Distt. Korba (Chhattisgarh)
7. Presenting Officer/Platoon Commander 13th Battalion, Chhattisgarh Armed Force (Caf), I/R Bango, Distt. Korba (Chhattisgarh)
8. Manmohan Khaperdea Company Commander, 13th Battalion, Chhattisgarh Armed Force (CAF), I/R Bango, Distt Korba (Chhattisgarh)

---Respondents

For Petitioner	:	Shri Abhishek Pandey, along with Ms. Deepika Sannat, Advocates.
For State	:	Smt Hamida Siddiqui, Dy. A.G..

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05.02.2021.

1. The challenge in the present writ petition is to the disciplinary proceedings initiated against the petitioner.

2. Perusal of the records would show that a charge-sheet was issued as early as on 16.05.2018 and the reply submitted by the petitioner being unsatisfactory, the respondent-authorities have appointed an Enquiry Officer and the Enquiry has proceeded thereafter.
3. The petitioner at this juncture has challenged the proceedings on various grounds, like, the complainant on an earlier occasion has been the preliminary Enquiry Officer based upon whose report, the charge-sheet has been issued and the same complainant has subsequent been made a witness in the Departmental Enquiry.
4. The further contention of the petitioner is that though the Presenting Officer has been appointed but the entire enquiry is being conducted by the Enquiry Officer himself in as much as even the evidences etc., were being recorded only by the Enquiry Officer. The next ground that the petitioner has raised is that the Enquiry Officer earlier appointed was of the rank of Dy. Commandant who in due course of time has retired and subsequently now an Assistant Commandant has been appointed as an Enquiry Officer which according to the petitioner should not have been done as the present Enquiry Officer is an Officer of lower in rank than the earlier Enquiry Officer.
5. All these grounds that the petitioner has raised at this juncture would not be subjected to judicial scrutiny under the power of judicial review in exercise of its power under Article 226. The charge-sheet which was issued on 2018 and considerable development have been transpired in between in the Enquiry.

6. In the instant case, the proceedings at this juncture has already reached the fag end of the enquiry as the enquiry report has also been submitted before the Disciplinary Authority. It would now be left for the Disciplinary Authority to take a departmental enquiry to a logical conclusion. The right of the petitioner is still open to raise all these grounds before the Disciplinary Authority on receipt of the Enquiry Report before the enquiry proceeding is concluded. It is always expected that the Disciplinary Authority shall consider the objections that the petitioner or the delinquent employee would be raising in his statement before any final decision is taken on the charges levelled against the petitioner.
7. Given the said facts, reserving the right of the petitioner to take all the objections that he has raised in the present writ petition before the Disciplinary Authority as his reply to the second show-cause notice along with the Enquiry Report.
8. The Writ Petition accordingly stands disposed with the aforesaid observations.

Sd/-

(P. Sam Koshy)
Judge