

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.4672 of 2009

Dr. Mohan Lal Sahare, Aged about 42 years, S/o Shri B.R. Sahare, Occupation Service, Working as Block Medical Officer, Community Health Center, Bamhnidih, Thesil Champa, District Janjgir-Champa (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Government of Chhattisgarh, Department of Health, Mantralaya, DKS Bhawan, Raipur (C.G.)
2. Director, Directorate of Health and Family Welfare, Raipur (C.G.)
3. Chief Medical Officer, District Janjgir-Champa (C.G.)

---- Respondents

 For Petitioner: Mr. Goutam Khetrapal, Advocate.
 For Respondents/State: Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

10/06/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner was working as Medical Officer and during the continuance of his service, he was placed on suspension by order dated 23-7-2001 and by order dated 1-1-2005, it was directed that salary and allowances of the petitioner will be decided on the basis of result of departmental enquiry and disposal of criminal case. Thereafter, by order dated 14-6-2005, the departmental enquiry was finalized inflicting penalty of minor punishment i.e. withholding of two annual increments with non-cumulative effect and thereafter, when the petitioner made representation for determination of salary and

allowances during the suspension period, that has been rejected vide Annexure P-1 dated 30-5-2008 holding that on 14-6-2005, the State Government had already decided that he would not be entitled for salary and allowances during the period of suspension and that has been called in question in the instant writ petition.

3. Mr. Goutam Khetrapal, learned counsel appearing for the petitioner, would submit that by order dated 14-6-2005 only minor penalty has been inflicted upon the petitioner and therefore he will be entitled for the entire allowances during the suspension period, but the State Government on extraneous consideration relying upon the order dated 14-6-2005, rejected the representation of the petitioner which is totally bad and uncalled for and perverse to the record.
4. Mr. Ravi Kumar Bhagat, learned State counsel, would oppose the writ petition and support the impugned order.
5. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
6. True it is that the petitioner's suspension has been revoked and he has been inflicted with minor penalty by order dated 14-6-2005 i.e. stoppage of two annual increments with non-cumulative effect, but the State Government has not passed any order for payment or non-payment of salary and allowances during the period of suspension, and when the petitioner made representation, his representation has been rejected referring to the order dated 14-6-2005, whereas the order dated 14-6-2005 is blissfully silent with regard to salary and allowances during the suspension period and nothing has been considered, even Rules 52 and 53 of the Fundamental Rules have not

been considered. As such, the impugned order dated 30-5-2008 is contrary to the record and is hereby set aside. The State Government is directed to consider the case of the petitioner for salary and other allowances during the suspension period in the light of the applicable rules, regulations and relevant provisions of law within 60 days from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the matter.

7. The writ petition is allowed in part as indicated herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge