

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.181 of 2012**

- Virendra Kumar, S/o Late Amir Chandra, Aged About 30 Years, R/o Village Sargaon, Post Salka, Vikas Khand Udaipur, Ambikapur, District Surguja, Chhattisgarh

----- Petitioner**Versus**

- 1.State of Chhattisgarh through Secretary, Panchayat and Gramin Vikas Vibhag, D.K.S. Bhawan, Raipur, District Raipur, Chhattisgarh
- 2.Zila Panchayat, Surguja, through Chief Executive Officer, Zila Panchayat, Surguja, Ambikapur, District Surguja, Chhattisgarh
- 3.Chief Executive Officer, Zila Panchayat, Surguja, Ambikapur, District Surguja, Chhattisgarh
- 4.Chief Executive Officer, Janpad Panchayat, Udaipur, District Surguja, Chhattisgarh
- 5.Chief Executive Officer and District Nodal Officer (Complaint Cell) Election Zila Panchayat, Surguja, Ambikapur, District Surguja, Chhattisgarh
- 6.Commissioner, Surguja Division, Surguja (Ambikapur), District Surguja, Chhattisgarh
- 7.Collector, Surguja District Surguja, Chhattisgarh

----- Respondents

For Petitioner	Mr. Manoj Paranjpe, Adv
For Respondent-State	Mr. Soumya Rai, PL
For Respondent Nos.2 to 5	Mr. Pawan Shrivastava, Adv

Hon'ble Justice Shri Sanjay K. Agrawal

Order On Board

11/08/2021

1. The petitioner was terminated by the respondent No.5 vide order dated 01.11.2008 (Annexure-P/4), which was called in question by the petitioner by filing an appeal before the Appellate Authority, the respondent No.6, Commissioner, Surguja Division under the Chhattisgarh Panchayats (Appeal and Revision) Rules, 1995. The Commissioner by its order dated 12.09.2011 (Annexure-P/1) set aside the order of termination (Annexure-P/4) but denied the full pay and allowances to the petitioner from the date of termination to the date of reinstatement in service on the principle of 'No Work No Pay', which is without jurisdiction and without authority of law. The said part of the order denying full pay and allowances on the principle of 'No Work No Pay' from the date of termination to the date of reinstatement in service has been called in question in the present writ petition.

2. Mr. Manoj Paranjpe, learned counsel for the petitioner, would submit that the order passed by the Appellate Authority denying full pay and allowances to the petitioner from the date of termination to the date of reinstatement in service on the principle of 'No Work No Pay' is without jurisdiction and without authority of law, therefore, the impugned order deserves to be set aside and the matter may be remitted to the Disciplinary Authority in line of the Rule 54 (2) of the Fundamental Rules, though it may not be applicable in the instant case, but the principle involved may be deduced to decide the case of the petitioner for full pay and allowances from the date of termination to the date of reinstatement in service and for which the petitioner has also made representation to the respondent authorities and presently also he is ready and willing to make additional representation in this regard.
3. Mr. Soumya Rai, learned State counsel and Mr. Pawan Shrivastava, learned counsel for the respondent Nos.2 to 5 would support 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. It is not in dispute that the order of termination dated 11.01.2008 (Annexure-P/4) was set aside by the Commissioner, but full pay and allowances from the date of termination to the date of reinstatement has been denied on the principle of 'No Work No Pay', which is without jurisdiction and without authority of law and infact the said part of the order could have been left to be considered by the Disciplinary Authority/Appointing Authority in line with the Rule 54 (2) of the Fundamental Rules and could have remitted the matter to the Disciplinary Authority, the respondent No.5. In that view of the matter, the said part of the order of the Commissioner denying full pay and allowances to the petitioner from the date of termination to the date of reinstatement is hereby set aside and the matter is remitted to the respondent No.5 to consider and decide the case of the petitioner for full pay and allowances from the

date of termination to the date of reinstatement in service, strictly in accordance with law and on the basis of the applicable rules, regulations and the judicial precedent in this regard by a reasoned and speaking order within a period of 2 months from the date of receipt of copy of this order. The petitioner is at liberty to make additional representation to the respondent authorities bringing into the notice of the said Authority the applicable rules, regulations and judicial precedent.

6. The writ petition is allowed. No order as to cost (s).
7. It is made clear that this Court has not expressed any opinion on the merits of the case.

Sd/-
Sanjay K. Agrawal
Judge

Nirala