

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5256 of 2011**

- Anil Kumar Dubey, S/o Shri Jageshwar Prasad Dubey, aged about 49 years, working on the post of Assistant Grade-II (Assistant Commissioner, Tribal Development, Ambikapur), R/o behind Collectorate, Tribal Colony, Ambikapur, District Surguja (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through the Secretary, Tribal Development Department, D.K.S. Bhawan, Raipur (C.G.)
2. The Commissioner, Surguja Division, Surguja, Ambikapur (C.G.)
3. The Collector & District Election Officer, Ambikapur, District Surguja (C.G.)
4. Assistant Commissioner, Tribal Development, Ambikapur, District Surguja (C.G.)

---- Respondents

For Petitioner	:	Shri Manish Mishra, Advocate.
For Respondents/State	:	Shri Sanjay Pathak, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****30.07.2021**

1. Proceedings of this matter have been taken up through video conferencing.
2. The learned counsel for the Petitioner would submit though the order imposing the major penalty has been set aside by the Commissioner, but he has been held not entitled for his full pay and allowances from 03.05.2009 to 08.10.2010 which is absolutely illegal and bad in law.

3. Shri Singh, the learned Panel Lawyer for the State support the impugned order.
4. I have heard the learned counsel for the parties, considered their rival submissions hereinabove and went through the records with utmost circumspection.
5. The punishment imposed *i.e.* the stoppage of 5 increments with cumulative effect by the Collector was set aside by the Commissioner by order dated 22.03.2011 (Annexure P/1). But, the Commissioner also held that since the Petitioner has not worked during the suspension period, therefore, he is not entitle for the full salary for that period on the principles of 'no work no pay'.
6. Since the order imposing the major penalty has been set aside by the Commissioner and only the minor penalty has been given by the Commissioner it would be appropriate to direct the Disciplinary Authority to consider and take decision on the question of grant of full pay and allowances from the date of suspension *i.e.* 03.05.2009 to the date of reinstatement *i.e.* 08.10.2010 in accordance with the applicable rules and circulars within a period of 'two months' from the date of receipt of a copy of this order.
7. With the aforesaid observation, the writ petition stands disposed off.

Sd/-
(Sanjay K. Agrawal)
Judge