

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (SERVICE) NO. 3067 OF 2021**

- Tejram Kaiwartya, S/o Late Shri Gokul Kaiwartya, aged about 61 years, posted as Assistant Grade-III (Receipt Section), R/o Prabhat Chowk, Chingrajpara, District Bilaspur (CG)

... Petitioner**versus**

1. State of Chhattisgarh, through its Secretary, Department of Panchayat and Rural Development, Raipur, Atal Nagar, Raipur, District Raipur (CG)
2. Chief Executive Officer, Zila Panchayat, Zila Panchayat Office, Bilaspur (CG)

... Respondents

For Petitioner : Mr. Animesh Verma, Advocate.

For Respondent No.1 : Mr. Rahul Jha, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****30/06/2021**

1. Petitioner, in the present Writ Petition, has questioned the initiation of disciplinary proceeding vide charge-sheet date 2.3.2021, Annexure P-1, as also the appointment of Inquiry Officer vide order dated 8.4.2021, Annexure P-2
2. Facts relevant for the disposal of the present Writ Petition are that, the Petitioner has been working under the Respondent No.2 as an Assistant Grade-III. He was first issued with a show-cause-notice on 10.2.2021 calling upon his explanation as to why he should not be subjected to a disciplinary proceeding. He gave his response to the said show-cause-notice on 11.2.2021. Subsequently, vide Annexure P-1, dated 2.3.2021, he was issued with a charge-sheet along an Appendix enclosed therewith showing the list of documents and also the list of witnesses.

3. It is the contention of Petitioner that though there are five documents in the Appendix enclosed along with the charge-sheet, none of those documents have been provided to him. That in the absence of any such documents he was not in a position to give an effective reply to the charges levelled against him. He thereafter immediately moved an application before the competent Authority for providing the relevant documents so that he could provide an effective reply to the charge-sheet. He again made an effort by moving another letter on 16.3.2021 seeking for providing all these documents to prove his innocence and also to disprove the allegations. However, ignoring the same, the Respondents have issued Annexure P-2, dated 8.4.2021, appointing the Inquiry Officer and also the Presenting Officer for enquiring into the allegations levelled against the Petitioner.
4. Learned Counsel for Petitioner submits that they intend to challenge the initiation of disciplinary proceeding primarily on two grounds. Firstly, the charge-sheet and the disciplinary proceeding have been initiated by an incompetent Authority and, secondly, the charge-sheet would get vitiated for non-providing of the documents enclosed along with the charge-sheet.
5. As regards the first ground of the disciplinary proceeding being initiated by an incompetent Authority, on a query being put to learned Counsel for Petitioner he does not dispute the fact that the order of appointment issued in favour of Petitioner was one which was issued by Respondent No.2. The charge-sheet also stands issued by Respondent No.2. At this juncture, learned

Counsel for Petitioner refers to Rule 7 of the Chhattisgarh Panchayat Services (Discipline & Appeal) Rules, 1999 stating that under the said Rules it is only the Disciplinary Authority who has the power to issue charge-sheet and furthermore under the Appendix to the said Rules, the Disciplinary Authority for the purpose of imposing major penalty is the General Administration Committee and on this ground also the disciplinary proceeding initiated against the Petitioner should be dropped.

6. Learned Counsel for Petitioner however submits that as of now he would not bank on the first ground and prays that the said issue may be left open to be considered after the conclusion of disciplinary proceeding.
7. With that submission of leaned Counsel for Petitioner, we proceed with the second ground raised by him as to whether the Petitioner is entitled for the documents which are part of the list of documents enclosed along with charge-sheet. It goes without saying that a person who is subjected to a disciplinary proceeding, particularly when the allegation is for a major misconduct and if there are list of documents cited along with the charge-sheet, the delinquent employee is entitled to know the contents of those documents enabling him to give proper and effective reply to the charges levelled against him. Copy of those documents also would be required to provide to the delinquent employee so that he is able to put forth his case and contentions before the Inquiry Officer effectively to prove his innocence and to disprove the allegations levelled against him. At the same time, it is also not

expected that the Respondent who has issued the charge-sheet accompanied by the list of documents proceed to hold a disciplinary enquiry by relying upon those documents of which the Petitioner does not have any knowledge whatsoever and does not even get an opportunity to rebut, deny, dispute and disprove the same.

8. Given the said facts, this Court is of the opinion that the decision on the part of Respondents in not providing the documents to Petitioner does not seem to be proper, legal and justified. It was also not justified for the reason that, in the absence of these documents the Petitioner could not provide an effective reply to the charge-sheet.
9. Under the circumstances, the Writ Petition at this juncture is disposed of directing the Respondent No.2 to ensure that the Petitioner is provided with all those documents which form part of the list of documents along with the charge-sheet and after providing the documents, grant the Petitioner a minimum seven days' time to give a further reply to the charge-sheet and on receipt of reply, if so submitted by the delinquent employee within a period of seven days or within a period as provided by Respondent No.2, the Respondent No.2 in turn shall consider the same and then take a decision as to whether the disciplinary proceeding still has to be continued or not, before proceeding further with the charge-sheet and the impugned order of the appointment of the Inquiry Officer.

10. Till the aforesaid steps are taken by the Authorities, particularly by Respondent No.2, it is expected that they shall not proceed further with the disciplinary proceeding.
11. As regards the ground of disciplinary proceeding being at the behest of an incompetent Authority, the said ground of Petitioner stands open to be adjudicated subject to final outcome of the disciplinary proceeding.
12. Similarly, so far as the non-releasing of the provident fund amount of which the Petitioner had applied in order to meet the expenses of marriage of his two daughters is concerned, since it is an entirely different cause of action the right of Petitioner stands reserved to file a fresh Writ Petition in this regard if he so wants.
13. Writ Petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

sharad