

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Writ Petition (S) No. 3192 of 2021**

1. Sunil Singh S/o Raj Kishore Singh, Aged About 29 Years Permanent R/o Village Pipri, Police Station Baroi, District Bhind (M.P.)

**---Petitioner(s)**

**Versus**

1. State of Chhattisgarh Through The Secretary, Home (Police) Department, Mantralaya, Atal Nagar, Nawa Raipur Chhattisgarh.
2. The Director General Of Police, Chhattisgarh, Police Headquarter, Nawa Raipur, Atal Nagar, Raipur Chhattisgarh.
3. The Deputy Inspector General Of Police (Chhattisgarh Arms Force Central Range), Police Headquarter, Nawa Raipur, District Raipur Chhattisgarh.
4. The Commandant, 14th Battalion, Chhattisgarh Arms Force, Dhanora, District Balod Chhattisgarh.

**---Respondents**

|                 |   |                                  |
|-----------------|---|----------------------------------|
| For Petitioner  | : | Shri Rahul K Mishra, Advocate.   |
| For Respondents | : | Ms. Sunita Jain, Govt. Advocate. |

**Hon'ble Shri Justice P. Sam Koshy**  
**Order on Board**

**01.07.2021**

1. Aggrieved by the order passed by the respondents refusing to take back the petitioner in service, the present writ petition has been filed.
2. The petitioner was working under the respondents as Constable (Trade). On account of petitioner getting involved in a criminal case under Section 450 IPC in which the petitioner got convicted vide judgment dated 28.06.2019, the services of the petitioner was terminated vide judgment dated 04.09.2019. The order of conviction was subjected to challenge in a Criminal Appeal i.e. CRA No.1075 of 2019. Initially the court had only suspended the jail sentence, however subsequently vide order dated 10.03.2021 the appellate court in Criminal Appeal has stayed the effect of

impugned order of conviction also. Pursuant to staying of the impugned conviction, the petitioner preferred a representation before the department seeking for reinstatement in service since operation of conviction order stands stayed by the appellate court. The said representation of the petitioner stood refused vide impugned order under challenge in the present writ petition.

3. From the aforesaid facts and circumstances of the case what reflected is that the petitioner was terminated after departmental enquiry on 04.09.2019. On the date of termination of service the petitioner stood convicted in criminal case vide judgment dated 28.06.2019. There was no stay of the effect and operation of the conviction order till the date of termination. The appeal itself was initially entertained and only stay of jail sentence was passed. Stay of conviction was obtained after more than 1 and ½ years from the date of termination i.e. on 10.03.2021. The effect of the order dated 10.03.2021 by this court would only have a prospective effect and action and decision taken by the authorities on the basis of judgment of conviction before the stay order was passed can only be now reconsidered after the final outcome of the criminal appeal i.e. CRA No.1075 of 2019. Therefore, the respondents have rightly refused the representation of the petitioner in the given factual backdrop of the case. Undoubtedly the judgment of conviction passed by the trial court has not been found to be erroneous nor has the judgment of conviction being set aside/quashed by the higher court. It is only the effect of conviction and effect of jail sentence which has been suspended, but those orders would have prospective effect and cannot be used for recalling of a decision which have been taken on the basis of judgment of conviction which till date has not been set aside/quashed.

4. For all the aforesaid reasons the petition being devoid of merit deserves to be and is accordingly rejected reserving the right of the petitioner to approach the authorities concerned after outcome of the Criminal Appeal.

Sd/-  
(P. Sam Koshy)  
**Judge**

inder