

HIGH COURT OF CHHATTISGARH AT BILASPUR

Review Petition No. 111 of 2021

1. The Principal D.P. Vipra College, Old High Court Road, Bilaspur Chhattisgarh.
2. The Chairman, Governing Body of D.P. Vipra College Old High Court Road, District Bilaspur Chhattisgarh.

---Petitioner(s)

Versus

1. Dr. Ramadhar Prasad Pandey S/o Late Shri Kalika Prasad Pandey Aged About 65 Years Occupation Assistant Professor (Ex In Charge Principal) D.P. Vipra College Old High Court Road, District Bilaspur Chhattisgarh.
2. State of Chhattisgarh Through Secretary, Higher Education Department, Mahanadi Bhawan, Mantralaya , Atal Nagar, Raipur Chhattisgarh.
3. The Commissioner Higher Education Department, Indrawati Bhawan, Mantralaya, Atal Nagar, Raipur Chhattisgarh.

---Respondents

For Petitioners	:	Shri BP Sharma, Advocate.
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

09.08.2021

1. The present review petition has been preferred seeking review of the order dated 28.06.2021 passed in WPS No.4965 of 2020.
2. Before entering into the merits, it would be relevant at this juncture to quote the operative part of the order passed by this court which is reproduced here in under:

“2. Today, when the matter was taken up for hearing, learned counsel for the petitioner shared a document issued from the office of the Additional Director (Finance), Higher Education Department dated 28.06.2021 directing that since the competent authority had not taken necessary approval of the suspension order within a period of 90 days and 90 days period having lapsed, the order of suspension has lost its efficacy and therefore, the order of suspension has been ordered to be revoked.

3. In view of the fact that the State authorities have already ordered for revocation of the order of suspension and also taking into consideration the fact that the petitioner is going to superannuate from service w.e.f. 30.06.2021, the present writ petition is being disposed of directing the respondent no.3 to immediately take appropriate steps in the light of the order of the state authorities dated 28.06.2021 so that the petitioner may not retire as a suspended employee.”

It is this order against which review is being sought.

3. The primary contention of the review petitioners is that the said order disposing of the writ petition by this court is without giving an opportunity of hearing to the applicants herein, who were the respondent No.3 in the writ petition. As such certain material facts could not be brought to the notice of this court which has led to the disposal of the said writ petition.
4. Learned counsel for the review petitioners submits that the original petitioner Dr. Ramadhar Prasad Pandey, after being placed under suspension from service has been proceeded for a disciplinary proceedings and a departmental enquiry was initiated. The initiation of the disciplinary proceedings have been subjected to challenge in a writ petition i.e. WPS No.4032 of 2020 and this court had already passed an interim order from concluding the departmental enquiry vide interim order dated 12.10.2020 and because of the interim order which is still in operation, the departmental enquiry has been concluded, the final decision could not be taken by the disciplinary authority.
5. According to the applicants, since the departmental enquiry could not be concluded, by virtue of the interim order, the order of suspension therefore could not have been revoked at the first instance. Secondly, it is the contention of the review petitioners that the order of the State Govt. dated

28.06.2021 itself is without jurisdiction and an illegal order and the said order dated 28.06.2021 is already subjected to challenge in WPC No.2865 of 2021 pending before this high court. According to the applicants, before the review petitioners could get an opportunity to challenge the order of the State Govt. dated 28.06.2021, the writ petition was disposed of on the very same day. Thus, both these facts requires review of the order dated 28.06.2021 and for posting of the writ petition to be heard again and decided on its own merits.

6. What is relevant at this juncture is to appreciate is the order of this court while disposing of the writ petition. Admittedly, the writ petition came up for hearing on 28.06.2021. It was on the very same day that the State Govt. had passed an order whereby the decision of placing the original petitioner under suspension had been revoked.
7. Another fact which needs appreciation is that, there were hardly two days left for the original petitioner i.e. respondent No.1 in this review petition to cross the age of superannuation i.e. 30.06.2021. Since it was only two days time left for retirement, this court had disposed of the writ petition directing the respondent No.3, the review petitioner herein, to take appropriate steps in the light of the order of the State authorities dated 28.06.2021.
8. The word “appropriate steps” needs emphasis at this juncture. Appropriate always means means as would be deemed fit. It can never be given an interpretation of the order of this court to be a Mandamus, to take the applicant back in service after revocation of the suspension by the order of the State Govt. It also can be given an interpretation of the right available to the review petitioner, the respondent No.3 in the original writ petition to challenge the action of the State Govt being taken away. This in other

words means that this court had left it for the review petitioners herein to take a decision which according to them deems fit in the factual backdrop of the development that took place, particularly the order dated 28.06.2021. The review petitioners herein, i.e. the respondent No.3 in the writ petition, is said to have availed that right to challenge, reserved upon them by preferring a writ petition i.e. WPC No.2865 of 2021. Having availed their right of challenging the order dated 28.06.2021 passed by the State Govt. now everything would depend upon the outcome of the said writ petition which is pending before this court.

9. Given the aforesaid facts, circumstances and observations made by this court, no strong case for review of the order dated 28.06.2021 passed by this court in WPS No.4965 of 2020 have been made out nor is it warranted in the given factual backdrop and the order passed by this court and the wordings used by this court while disposing of the said writ petition.
10. The review petition therefore stands rejected.

Sd/-
(P. Sam Koshy)
Judge

inder