

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4865 of 2016**

Deepak Gautam, Aged about 29 years, S/o Shri Shiv Narayan Gautam, Occupation Service, Contract Lecturer, Government Engineering College, Jagdalpur, Distt. Bastar, Chhattisgarh.

--- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary Department of Technical Education, Man Power and Planning Department, Mahanadi Bhawan, Mantralaya, New Raipur, P.S. Rakhi, Distt. Raipur, Chhattisgarh.
2. The Principal, Government Polytechnic College, Khairagarh, Distt. Rajnandgaon, Chhattisgarh.

--- Respondents

WPS No. 4358 of 2016

Deepa Gupta, Aged about 29 years, W/o Shri Akshat Kumar Gupta, Occupation Service, Working as Lecturer, Section I.T. Government Engineering College, Koni, Bilaspur, Distt. Bilaspur, Chhattisgarh R/o Near SBT College, Gali No. 07, Kududand, Bilaspur, Chhattisgarh.

--- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary Department of Technical Education, Man Power and Planning Department, Mahanadi Bhawan, Mantralaya, New Raipur, P.S. Rakhi, Distt. Raipur, Chhattisgarh.

2. The Principal, Government Polytechnic College,
Khairagarh, Distt. Rajnandgaon, Chhattisgarh.

--- Respondents

WPS No. 5115 of 2016

Mrs. Amrita Banjare, Aged about 30 years, W/o Shri
Vinod Kumar Banjare, Occupation Service, Working as
Lecturer, Section I.T., Government Polytechnic
College, Durg, Distt. Durg Chhattisgarh R/o Qtr.
No. 37/2, Street 6A Maitri Nagar, Risali, Bhilai,
Distt. Durg, Chhattisgarh.

--- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary
Department of Technical Education, Man Power and
Planning Department, Mahanadi Bhawan, Mantralaya,
New Raipur, P.S. Rakhi, Distt. Raipur,
Chhattisgarh.

2. The Principal, Government Polytechnic College,
Khairagarh, Distt. Rajnandgaon, Chhattisgarh.

--- Respondents

WPS No. 4787 of 2016

Dheeraj Agrawal, Aged about 30 years, S/o Shri
Kranti Lal Agrawal, Occupation Service, Lecturer
(Computer Science), Udai Prasad Udai Government
Polytechnic College, Durg, Distt. Durg,
Chhattisgarh.

--- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary
Department of Technical Education, Man Power and
Planning Department, Mahanadi Bhawan, Mantralaya,

New Raipur, P.S. Rakhi, Distt. Raipur,
Chhattisgarh.

2. The Principal, Government Polytechnic College,
Khairagarh, Distt. Rajnandgaon, Chhattisgarh.

--- Respondents

WPS No. 4779 of 2016

Khushboo Sharma, Aged about 27 years, D/o Shri Prem
Chand Sharma, Occupation Service, Lecturer,
Computer Science, Udai Prasad Udai Government
Polytechnic College, Durg, Distt. Durg,
Chhattisgarh.

--- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary
Department of Technical Education, Man Power and
Planning Department, Mahanadi Bhawan, Mantralaya,
New Raipur, P.S. Rakhi, Distt. Raipur,
Chhattisgarh.
2. The Principal, Government Polytechnic College,
Khairagarh, Distt. Rajnandgaon, Chhattisgarh.

--- Respondents

WPS No. 4945 of 2016

Prashant Sharma, Aged about 30 years, S/o Shri G.L.
Sharma, Occupation Service, Lecturer, Government
Girls Polytechnic College, Rajnandgaon, Distt.
Rajnandgaon, Chhattisgarh.

--- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary
Department of Technical Education, Man Power and
Planning Department, Mahanadi Bhawan, Mantralaya,

New Raipur, P.S. Rakhi, Distt. Raipur,
Chhattisgarh.

2. The Principal, Government Polytechnic College,
Khairagarh, Distt. Rajnandgaon, Chhattisgarh.

--- Respondents

WPS No. 5894 of 2016

Chowaram Tandekar, Aged about 31 years, S/o Shri
Bharat Lal Tandekar, Occupation Service, Lecturer
(Mechanical Engineer), Government Polytechnic
College, Kanker, Distt. Kanker, Chhattisgarh.

--- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary
Department of Technical Education, Man Power and
Planning Department, Mahanadi Bhawan, Mantralaya,
New Raipur, P.S. Rakhi, Distt. Raipur,
Chhattisgarh.
2. The Principal, Government Polytechnic College,
Khairagarh, Distt. Rajnandgaon, Chhattisgarh.

--- Respondents

WPS No. 5908 of 2016

Amit Soni, Aged about 31 years, S/o Shri Lakhan Lal
Soni, Occupation Service, Lecturer (Mechanical
Engineer), Government Polytechnic College,
Khairagarh, Distt. Rajnandgaon, Chhattisgarh.

---Petitioner

Versus

1. State of Chhattisgarh, through the Secretary
Department of Technical Education, Man Power and
Planning Department, Mahanadi Bhawan, Mantralaya,

New Raipur, P.S. Rakhi, Distt. Raipur,
Chhattisgarh.

2. The Principal, Government Polytechnic College,
Khairagarh, Distt. Rajnandgaon, Chhattisgarh.

--- Respondents

For Petitioners	:- Mr. Rahul Tamaskar and Mr. Rajat Agrawal, Advocates
For State	:- Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board (Through Video Conferencing)

22/07/2021

1. Since common question of law and fact is involved in all these writ petitions, therefore they are clubbed together, heard together and are being disposed of by this common order.
2. In all of these writ petitions, petitioners, at the relevant point of time, were working as Lecturer on contract basis in Government Engineering and Polytechnic Colleges. On complaint being received that petitioners are undergoing studies for M.E./M.Tech courses in the same colleges where they were working and they have also obtained degrees while working on the said post on contractual basis, an enquiry was conducted by the State Government and finding the

allegations against the petitioners to be correct, their services have been terminated by the impugned order (Annexure P/1) under Rule 9 of Chhattisgarh Civil Sewa (Samvida Niyukti) Niyam, 2012 read with Rule 7 of Chhattisgarh Civil Services (Conduct) Rules, 1965 on the ground that they have obtained degrees of M.E./M.Tech without prior permission of the State Government.

3. Return has been filed by the State opposing the writ petitions stating inter alia that petitioners are guilty of undergoing M.E./M.Tech courses and obtaining degrees without prior permission of the State Government while they were working as Lecturers on contractual basis, which is a serious misconduct on their part and therefore, their services have rightly been terminated.

4. Mr. Rahul Tamaskar and Mr. Rajat Agrawal, learned counsel for the petitioners, would submit that petitioners are governed by their appointment orders in which there is no such clause that they cannot undertake any course/degree during their service tenure as Lecturer and even otherwise, while holding the petitioners guilty of misconduct, their services have been terminated without even affording him an opportunity of

hearing which is absolutely illegal and without jurisdiction and without authority of law.

5. Mr. Ravi Bhagat, learned State counsel, would submit that petitioners have been found guilty of undergoing courses of M.E./M.Tech that too, during their continuance of service as Lecturer on contractual basis without obtaining prior permission from the State Government and after holding a brief enquiry, they have rightly been terminated from service.

6. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and went through the records with utmost circumspection.

7. It is not in dispute that petitioners, at the relevant point of time, were working as Lecturers in Government Engineering and Polytechnic Colleges on contractual basis and it is also not in dispute that while working on the said posts, they have simultaneously obtained degrees of M.E./M.Tech and on complaint, an enquiry was conducted and it was found that petitioners have undertaken the aforesaid courses without prior permission of the State Government. It appears that enquiry was conducted and petitioners were found guilty of the aforesaid allegations against them, but while

terminating their services, they were neither subjected to any departmental enquiry nor they have been afforded any opportunity of hearing and extreme penalty of termination from service has been inflicted upon them in accordance with Rule 9 of Chhattisgarh Civil Sewa (Samvida Niyukti) Niyam, 2012 read with Rule 7 of Chhattisgarh Civil Services (Conduct) Rules, 1965.

8. Rule 11(5) of Chhattisgarh Civil Sewa (Samvida Niyukti) Niyam, 2012 clearly provides that either of both the parties may terminate contract appointment during the period of contract appointment by giving one month's notice in advance or paying one month's salary in its place and the appointment order of the petitioners also provides for such provision, but it has not been complied with and petitioners' services have been terminated holding them guilty of misconduct without even affording them a minimum opportunity of hearing. As such, the order of termination of the petitioners is in teeth of Rule 11(5) of Chhattisgarh Civil Sewa (Samvida Niyukti) Niyam, 2012 and is even in violation of principles of natural justice.

9. Accordingly, the order of petitioners' termination (Annexure P/1) is hereby set aside. However, since

petitioners' tenure of service has already been completed, they will not be entitled for reinstatement, but when new appointments are made, the petitioners will be at liberty to move an application for appointment in accordance with the advertisement/rules and regulations applicable therein and the setting aside of their order of termination would not be a bar for fresh appointment of the petitioners.

10. With the aforesaid observations, these writ petitions stand disposed of. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet