

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4773 of 2021

1. Manish Kumar Patre S/o Late Tika Ram Patre Aged About 41 Years Presently Working as Assistant Director, Urban Administration and Development, Regional Office, Bilaspur District Bilaspur Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Urban Administration and Development Department, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh.
2. Deputy Secretary Urban Administration And Development Department Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh.
3. Director Directorate, Urban Administration And Development Department Indravati Bhawan, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh.
4. Joint Director Urban Administration And Development Department, Bilaspur, District Bilaspur Chhattisgarh.

---Respondents

For Petitioner	:	Shri C Jayant K Rao, Advocate.
For State	:	Shri Jitendra Pali, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14.09.2021.

1. The petitioner through the present writ petition assails two orders dated 07.08.2021 (Annexure P/1) and 10.03.2021 (Annexure P/2). Vide order dated 10.03.2021 the petitioner has been found guilty of disciplinary proceedings initiated against the petitioner and a major punishment of stoppage of two annual increments with cumulative effect has been imposed. At the same time, there is also an order issued for recovery of an amount of Rs.6,11,435/- towards recovery of the loss caused to the department.
2. The petitioner had preferred certain representations/appeals to the Principal Secretary as also to the Joint Secretary in the department who vide order Annexure P/1 has rejected the appeal/representation said to be preferred by the petitioner.

3. The contention of the petitioner is that the original order of punishment and the order rejecting the representation/appeal of the petitioner is all one and the same authority and therefore the order Annexure P/1 would not be sustainable as it would amount to the same person who had passed the original order of punishment subsequently sitting as an appellate authority in deciding the appeal.
4. Learned counsel appearing for the State submits that it is a case where the petitioner infact had not preferred a departmental appeal to the appellate authority. Rather it was only a representation or a review which the petitioner has sought for by the application made to the Joint Secretary as also to the Principal Secretary of the department against the order of punishment and recovery dated 10.03.2021.
5. This court on the previous date of hearing directed the petitioner to produce memo of appeal, if any, before the court.
6. Today the counsel for the petitioner by way of covering memo had produced before this court certain documents claiming it to be departmental appeal, however, on perusal of the same it appears that nowhere has it been addressed to the appellate authority nor has it been referred to as a departmental appeal against the order dated 10.03.2021.
7. The counsel for the State submits that subject to petitioner preferring a duly constitute memo of appeal as departmental appeal against the order of punishment to the appellate authority, the same shall be decided on its own merits in accordance with law.
8. Given the said facts, the writ petition at this juncture stands disposed of permitting the petitioner to prefer a duly constituted departmental appeal to the appellate authority within a period of 15 days from today. Subject to petitioner preferring an appeal within 15 days, the appellate authority is

expected to take a decision on the memo of appeal to be filed by the petitioner within an outer limit of 60 days from the date of receipt of memo of appeal by the petitioner.

- 9.** The petitioner would also be at liberty to seek an interim protection so far as order of recovery is concerned from the appellate authority.
- 10.** With the aforesaid observations the writ petition stands disposed of. It is made clear that order Annexure P/1 dated 07.08.2021 should not be construed as an order passed by the appellate authority in the past by the department.

Sd/-
(P. Sam Koshy)
Judge

inder