

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 5823 OF 2021**

- Lileshwar Dewangan, S/o Late Shri J. R. Dewangan, aged about 53 years, R/o behind Rajdhani Hospital, in front lane of Mistique Beauty Parlour, Laxmi Nagar, Pachpedi Naka, District Raipur (C.G.). Currently posted at: Accountant, office of the Collector, Tribal Development Section, District Baloda Bazar (C.G.)

... Petitioner**versus**

1. State of Chhattisgarh, through the Secretary, Schedule Caste and Schedule Tribe Development Department, Mahanadi Bhawan, New Mantralaya, New Raipur, District Raipur (C.G.)
2. The Collector, Tribal Development Section, Collectorate, Distt. Raipur (CG)

... Respondents

For Petitioner	:	Ms. Anuja Sharma, Advocate.
For Respondents	:	Mr. Lalit Jangde, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****[26/10/2021]**

1. The present Writ Petition has been filed by Petitioner aggrieved by the Charge-sheet dated 16.7.2021, Annexure P-1, issued by Respondent No.2.
2. Primarily, the Charge-sheet has been challenged on the ground of the same having been issued at the belated stage of more than 25 years. Secondly, the Charge-sheet has been assailed on the ground that when the Petitioner had moved application for providing certain material documents for his defence before the Disciplinary Authority, it has been informed by the Department that they do not have any such record which the Petitioner was seeking for.
3. From plain reading of the charges levelled against the Petitioner, it *prima facie* appears to be a case where the charges against the Petitioner are that he is said to have misled the Department both in respect of continuous service rendered under the Respondents and also in respect of the essential qualification required for being regularised in the Department under the State Authorities.
4. The two charges primarily seem to be in respect of the very regular appointment of Petitioner under the Respondents. If the allegation is that of getting regularization or appointment under the Respondents on the basis of false information, every employer has a right of conducting an enquiry in this regard at any point of time.

5. Since the allegation is of obtaining the employment by way of fraud, the period of service rendered by Petitioner under the Respondents or, for that matter, the delay laches would not come in the way as the allegation has to be enquired into as and when it has been detected. It is not a case where the Respondents were well within the knowledge of the said facts right from the time of the appointment itself. Under the circumstances, every employer has right to get the facts enquired and to take appropriate action on the basis of the finding which has come on record.

6. So far as the non-availability of documents and records are concerned, it goes without saying that the Petitioner would be entitled for every such documents and records which the Department would be relying upon in the course of departmental enquiry. It is only after providing the Petitioner a copy of those relevant records which they rely and a fair chance of defence being provided, should the Respondent Authorities proceed and conclude the departmental enquiry, if initiated. It would be too premature for this Court invoking the Writ jurisdiction to either quash the Charge-sheet or to stall the disciplinary proceeding at this juncture.

7. From the pleadings, it appears that the Petitioner has already submitted his reply to the Charge-sheet on 19.8.2021, vide Annexure P-8, thereafter, there has been no further development.

8. Given the said facts, this Court is reluctant to entertain the present Writ Petition at this juncture, reserving the right of the Petitioner to approach the Competent Authority including the Disciplinary Authority and the Inquiry Officer, if required, in respect of the allegations and the stand of Respondents.

9. Writ Petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE