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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6960 of 2026

Riyazul Bari S/o Late Abdul Latif Aged About 65 Years R/o C - 104, (Phase-1) Magneto Signature Home, Near Mangneto Mall Raipur District Raipur C. G.

Petitioner(s)

versus

1 - State Of Chhattisgarh Through- Its Secretary Panchayat And Rural Development Department Mantralaya Mahanadi Bhawan Naya Raipur Atal Nagar District Raipur C.G.

2 - Under Secretary Panchayat And Rural Development Department Mantralaya, Mahanadi Bhawan Naya Raipur Atal Nagar District Raipur C.G.

3 - Additional Secretary Panchayat And Rural Development Department Mantralaya, Mahanadi Bhawan Naya Raipur Atal Nagar Raipur Distirct Raipur C.G.

4 - Chief Executive Officer, Chhattisgarh Rural Road Development Agency (C G R R D A) Vikas Bhawan Civil Lines, Raipur District Raipur C.G.

5 - Development Commissioner Office Of The Development Commissioner Mantralaya Mahanadi Bhawan Naya Raipur Atal Nagar District Raipur C.G.

Respondent(s)

(Cause-title taken from CIS)

For Petitioner(s)	:	Mr. Mateen Siddique, Senior Advocate along with Ms. Zainab Mustafa Vanak, Advocate
For Respondent(s)	:	Mr. Vinay Pandey, Dy. AG along with Ms. Vartika Shrivastava, PL

(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)

Order on Board

05/10/2026

1. By way of the present writ petition under Article 226 of the Constitution of India, the petitioner has called in question the legality and validity of the charge-sheet dated 21.04.2026 issued by the Panchayat and Rural Development Department, State of Chhattisgarh, under Rule 14 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966, which was served upon the petitioner on 09.05.2026. The petitioner has sought quashing of the aforesaid charge-sheet as well as the consequential disciplinary proceedings arising therefrom.

2. Learned counsel for the petitioner submits that on completion of more than four decades of service in the Department of Rural Engineering Services, Govt. of Chhattisgarh, the Petitioner retired on 30.06.2023 after attaining the age of superannuation. According to the learned counsel, after retirement of the petitioner, his services were engaged on contractual basis on the post of Chief Engineer (Construction), Chhattisgarh Rural Road Development Agency (CGRRDA), which is a society registered under the provisions of the Chhattisgarh Societies Registration Act. It is submitted that prior to his retirement from Govt. service, a No Objection Certificate dated 22.05.2023 was issued certifying that no departmental enquiry or adverse matter was pending against him. It is further submitted that the impugned charge-sheet relates to alleged financial irregularities concerning funds earmarked for maintenance under the Pradhan Mantri Gram Sadak Yojana (PMGSY). Learned counsel submits that, since the petitioner had already retired from Government service, initiation of departmental proceedings against him could be made only in accordance with Rule 9 of the Chhattisgarh Civil Services (Pension) Rules,

1976 (for brevity ‘the Pension Rules, 1976’). According to him, departmental proceedings against a retired Government servant cannot be instituted without obtaining the sanction contemplated under Rule 9(2)(b)(i) of the said Rules. In the present case, according to learned counsel, such mandatory requirement has not been complied with and, therefore, the impugned charge-sheet and the consequential departmental proceedings are without jurisdiction.

3. Learned counsel further places reliance upon the judgment of the Division Bench in Writ Appeal No.266 of 2025 and the order passed in Writ Petition No.3981 of 2004, wherein, according to him, it has been held that departmental proceedings against a retired Government servant, if initiated without compliance with the mandatory requirements of Rule 9 of the Pension Rules, 1976, cannot be sustained.

4. Learned counsel appearing for the State, *per contra*, has filed a reply. Referring to the Circular dated 02.03.2017, he submits that, in cases where departmental proceedings are proposed to be instituted against a retired Government servant, the requirement under Rule 9(2) of the Pension Rules is required to be understood in the light of the said Circular, whereby approval of the Chief Minister through the Coordination Department is required and separate approval of the Governor is not necessary. He further refers to the Notification dated 05.07.2014, which forms the basis of the aforesaid Circular dated 02.03.2017. It is submitted that, by the said Notification, the General Administration Department, Government of Chhattisgarh, amended the Rules of Business and included matters relating to withholding or withdrawal of pension under Rule 9 of the Pension Rules, 1976, amongst the matters requiring consideration by the Coordination Department. Referring to the note-

sheet of the office of the Hon’ble Chief Minister, learned State counsel submits that the requisite approval was duly obtained through the Coordination Department and that the approval of the Hon'ble Chief Minister was accorded on 25.02.2026. It is, therefore, contended that there is no illegality in the initiation of the departmental proceedings against the petitioner.

5. I have heard learned counsel for the parties and have perused the pleadings as well as the material placed on record.

6. Before adverting to the rival submissions, it would be apposite to reproduce the relevant provision contained in Rule 9(2)(b) of the Chhattisgarh Civil Services (Pension) Rules, 1976, which reads as under:

> **"9. Right of Governor to withhold or withdraw pension**. -
>
> xxx xxx xxx
> xxx xxx xxx
> xxx xxx xxx
>
> (2) (a) The departmental proceedings [xxx] *[Omitted by Notification No. FB-25-31-95-PWC-IV, dated 22-12-1995 (w.e.f. 26-1-1996).]*, if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced, in the same manner as if the Government servant had continued in service :
>
> Provided that where the departmental proceedings are instituted by an authority subordinate to the Governor, that authority shall submit a report regarding its findings to the Governor.
>
> (b) The departmental proceedings, if not instituted while the Government servant was in service whether before his retirement or during his re-employment :-
>
> (i) shall not be instituted save with the sanction of the Governor;
>
> (ii) shall not be in respect of any event which took place more than four years before such institution; and
>
> (iii) [shall be conducted by such authority and in such place as the Government may direct and in accordance with the

> procedure applicable to departmental proceedings : *[Substituted by Notification No. FB-6-3-78-N-II-IV, dated 10-11-1978 (w.e.f. 10-11-1978).]*
>
> (a) in which an order of dismissal from service could be made in relation to the Government servant during his service in case it is proposed to withhold or withdraw a pension or part thereof whether permanently or for a specified period; or
>
> (b) in which an order of recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders could be made in relation to the Government servant during his service if it is proposed to order recovery from his pension of the whole or part of any pecuniary loss caused to the Government].
>
> xxx xxx xxx
> xxx xxx xxx
> xxx xxx xxx

7. A perusal of the Circular dated 02.03.2017 and the Notification dated 05.07.2014 shows that the Notification brought about an alteration in the allocation of business by including the matters relating to Rule 9 of the Pension Rules, 1976, amongst the matters requiring coordination. The Circular dated 02.03.2017 appears to have been issued in consequence thereof. However, neither the Notification dated 05.07.2014 nor the Circular dated 02.03.2017 has been shown to this Court as having amended the substantive provision contained in Rule 9(2)(b)(i) of the Pension Rules, 1976. In particular, no material has been placed on record to demonstrate that the expression "Governor", occurring in Rule 9(2)(b)(i), has been substituted by the expression "Chief Minister".

8. The contention of the petitioner is that Rule 9(2)(b)(i) of the Pension Rules, 1976 is couched in clear terms and specifically provides that departmental proceedings, if not instituted while the Government servant was in service, "shall not be instituted save with the sanction of the Governor."

Learned counsel has also placed reliance upon the judgment of the Division Bench in Writ Appeal No.266 of 2025, wherein the provisions of Rule 9 of the Pension Rules, 1976 were considered in the context of departmental proceedings initiated against a retired Government servant. It is also submitted that the Circular dated 02.03.2017 was considered by the Division Bench in the said judgment.

9. Having considered the rival submissions and the material placed on record, it is not in dispute that the departmental proceedings against the petitioner were initiated after his retirement and that the approval relied upon by the respondents is the approval accorded by the Hon'ble Chief Minister through the Coordination Department. It is also not in dispute that no sanction of the Hon’ble Governor, as contemplated by the express language of Rule 9(2)(b)(i) of the Pension Rules, 1976, has been obtained. The respondents, despite reliance upon the Notification dated 05.07.2014 and the Circular dated 02.03.2017, have not placed on record any amendment to Rule 9(2)(b)(i) whereby the expression "Governor" occurring therein has been substituted by the expression "Chief Minister".

10. It is well settled that an action to be taken in a particular manner as provided by a statute, must be taken, done or performed in the manner prescribed and in no other manner. The Supreme Court in the matter of ***Meera Sahni v. Lieutenand Governor of Delhi and Other, (2008) 9 SCC 177*** has held at para 35 as under:-

> *“35. It is by now a certain law that an action to be taken in a particular manner as provided by a statute, must be taken, done or performed in the manner prescribed and in no other manner. In*

> *this connection we may appropriately refer to the decision of this Court in Babu Verghese v. Bar Council of Kerala wherein it was held as under: (SCC pp. 432-33, paras 31-32)*
>
> > *"31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor v. Taylor which was followed by Lord Roche in Nazir Ahmad v. King Emperor who stated as under: (IA pp. 381-82)*
> >
> > > *'where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all.'*
> >
> > *32. This rule has since been approved by this Court in Rao Shiv Bahadur Singh v. State of Vindh Pradesh[1] and again in Deep Chand v. State of Rajasthan. These cases were considered by a three-Judge Bench of this Court in State of U.P. v. Singhara Singh[1]2 and the rule laid down in Nazir Ahmad case was again upheld. This rule has since been applied to the exercise of jurisdiction by courts and has also been recognised as a salutary principle of administrative law."*

11. In the absence of any amendment to the substantive statutory provision, an executive instruction or an alteration in the allocation of business cannot, in our considered view, have the effect of substituting the authority expressly prescribed under Rule 9(2)(b)(i) of the Pension Rules, 1976. The requirement of obtaining the sanction of the Governor, as specifically stipulated in the statutory Rule, therefore could not have been dispensed with merely on the basis of the Circular dated 02.03.2017 or the approval accorded by the Hon'ble Chief Minister through the Coordination Department. Consequently, the

initiation of departmental proceedings against the petitioner without obtaining the sanction contemplated under Rule 9(2)(b)(i) cannot be sustained.

12. Applying the well settled principles of law to the facts of the present case and for the reasons mentioned hereinabove, the writ petition is **allowed**. The impugned charge-sheet dated 21.04.2026 and the consequential departmental proceedings initiated pursuant thereto are hereby quashed.

13. However, the respondents shall remain at liberty to proceed against the petitioner in accordance with law, if so advised, by complying with the requirements of Rule 9 of the Pension Rules, 1976.

Sd/-

(BIBHU DATTA GURU)
JUDGE

Rahul