



2026:CGHC:34218



CGHC010015952022



2026:CGHC:34218

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 363 of 2022

* - Rajkumar Sahu S/o Late Shri Abhayram Sahu Aged About 33 Years (Ex. Constable No. 1509), R/o Village Manki, Post Khertabazar, Tahsil Doundilohara, Police Station Devri, District Balod Chhattisgarh.

... Petitioner

Versus

1 - State Of Chhattisgarh Through Secretary, Department Of Home Affairs, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.

2 - Director General Of Police, Police Head Quarter, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.

3 - Inspector General Of Police Office Of Inspector General Of Police, 32 Bunglow Bhilai, District Durg Chhattisgarh.

4 - Superintendent Of Police Rajnandgaon, District Rajnandgaon Chhattisgarh.

... Respondents

For Petitioner : Mr. Sunil Pillai, Advocate

For Respondents/State : Mr. Anil S. Pandey, Government Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey **Order on Board**

05/08/2026

1. The petitioner has filed this petition seeking the following relief(s):-

"10.1 That, the order passed on 21-09-2015 by the respondent no. 4 (Annexure P-3), the order passed on 31-10-2015 by the respondent no. 3 (Annexure P-4) and the order passed on 06-02-2016 by the respondent No. 2 (Annexure P-5) again order passed on 12-11-2018 by the respondent No. 2 (Annexure P-6) be quashed by this Hon'ble Court.

10.2 That, a writ of mandamus be issued against the respondents in consonance with the principle of natural justice, equity good conscience and fairness in the facts.



10.3 That, a writ of certiorari be issued against the respondents that, it is apparent on the face of record, that the disproportionate/major punishment is to be reconsidered.

10.4 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to reinstate the petitioner in service with all consequential benefit.

10.5 That, the Hon'ble Court may kindly be pleased to grant any other relief, as it may deem-fit and appropriate."

2. The facts, in brief, are the the petitioner was appointed to the post of Constable under the respondents on 30.12.2009. On 17.11.2014 one Ramji Sinha and and Pitamber Puri Goswami lodged F.I.R. Nos. 152/2014 and F.I.R. No. 153/2014 at Police Station Deveri, District Balod (C.G.) for commission of offence punishable under Section 420 read with Section 34 of IPC against the petitioner, Abhay Ram Sahu and D. Mahadevan. Abhay Ram Sahu (dead) and D. Mahadevan. After registration of F.I.R. show cause notice was issued to the petitioner by Superintendent of Police, Rajnandgaon and a departmental enquiry was contemplated. The Disciplinary Authority appointed Enquiry Officer and Presenting Officer on 28.05.2015. The allegations against the petitioner was that he along with other 02 persons grabbed sum of Rs.2,50,000/-; 1,50,000/- and 1,70,000/- from the complainants to provide them government jobs and he remained absent from services for period from 18.11.2014 till date of arrest i.e. 19.02.2015. The petitioner was provided all the relevant documents including list of witnesses, the petitioner refused to appoint defence assistance. Article of charge was served upon the petitioner which was duly replied.
3. The prosecution examined Inspector Ajit Ogre, Station House Officer, Mohla as witness No. 1 who supported the case of department.



Though the petitioner was granted opportunity to cross-examine, but no question was put.

4. Witness No. 2 Mujirburrahman Quereshi, Head Constable; Pitamber Puri Goswami as witness No. 3; Ramji Sinha as witness No. 4; Yogendra Puri Goswami as witness No. 5; Dhaneshwar Lal Sinha as witness No. 6; Khedu Ram Sinha as witness No. 7; Smt. Sunita Goswami as witness No. 8; Assistant Sub Inspector Dilip Kumar Dhurve as witness No. 9; Sub Inspector D.K. Kamde as witness No. 10; Manishanker Chandra, Station House Officer as witness No. 11; Sub Inspector D.K. Barwa as witness No. 12; Kavita Sahu, Sub Inspector as witness No. 13; Inspector N.P. Chandrakar as witness No. 14 and Amrit Lal Sidar, Head Constable as witness No. 15 were examined. The petitioner was afforded opportunity to cross-examine these witnesses, but no questions were asked. The petitioner was also examined by the Enquiry Officer and thereafter the Enquiry Officer prepared enquiry report and submitted it before the Disciplinary Authority.
5. Second show cause notice was issued and thereafter penalty of removal from service was inflicted vide order dated 21.09.2015. The petitioner preferred departmental appeal before the Inspector General of Police, Durg Region and it was dismissed vide order dated 31.10.2015. Mercy petition was also filed which was dismissed by the Director General of Police vide order dated 06.02.2016. The petitioner has challenged all 03 orders by filing this writ petition.
6. Mr. Sunil Pillai, learned counsel appearing for the petitioner would argue that the Presenting Officer was not appointed and thus, the entire enquiry proceedings stood vitiated. It is also contended that the



Enquiry Officer acted as prosecutor and judge which is in contravention to the Rule 14 (17) (7) and Rule 14 (18) of Chhattisgarh Civil Service (Classification, Control and Appeal) Rules 1966. It is also submitted that no second show cause notice was issued and the Enquiry Officer failed to evaluate cross-examination part and therefore the enquiry report and the orders based on such report are bad-in-law. He would pray to allow this petition. He has placed reliance on the judgment passed by the Hon'ble Supreme Court in the matter of ***P. John Chandy and Co. (P) Ltd. Vs. John P. Thomas*** reported in ***(2002) 5 SCC 90***.

7. On the other hand, Mr. Anil S. Pandey, learned Government Advocate would contend that F.I.Rs. were lodged against the petitioner and thereafter article of charge was issued by the competent Authority on 15.05.2015. He would submit that vide Annexure R-1 dated 28.05.2015 Enquiry Officer and Presenting Officer were appointed. He would submit that all the documents were provided to the petitioner and there is no allegation in this regard. He would refer enquiry report which shows that the petitioner was afforded sufficient opportunity to cross-examine the witnesses, but questions were not put. It is also submitted that the Enquiry Officer did not act as prosecutor and there is no material to substantiate this fact in writ petition. He would contend that the Enquiry Officer, Disciplinary Authority and the Appellate Authority duly considered the evidence of witnesses including the cross-examination. He would submit that as no question was put by the petitioner to the witnesses; there was no occasion for the Authorities to consider that part. It is also argued that the petitioner has not challenged competence of Disciplinary Authority and there is no



allegation of violation of principles of natural justice, therefore, this petition deserves to be dismissed.

8. I have heard learned counsel for the parties and perused the documents.
9. Admittedly the concurrent findings of facts have been recorded by the Disciplinary Authority and Appellate Authority; 02 F.I.Rs. were registered against the petitioner on allegation that he along with 02 persons grabbed Rs.2,50,000/-; 1,50,000/- and 1,70,000/- from the complainants to provide them government job. Further the petitioner remained absent from services from 18.11.2014 till date of arrest i.e. 19.02.2015.
10. Perusal of the documents filed along with return would show that article of charge was served upon the petitioner; Enquiry Officer and Presenting Officer were appointed vide order dated 28.05.2015; 15 witnesses were examined to prove the guilt of the petitioner and the petitioner was provided sufficient opportunity to cross-examine those witnesses. The petitioner failed to ask any question from those witnesses and therefore, there was no occasion either for Enquiry Officer or Disciplinary Authority to discuss the cross-examination part of evidence.
11. In the matter of **P. John Chandy** (supra), the Hon'ble Supreme Court has held that the Court must consider the whole statement. Cross-examination constitutes an important part of the statement of a witness and whatever is stated in the examination-in-chief, stands tested by the cross-examination.
12. In the present case, the petitioner failed to cross-examine the witnesses, therefore, the Enquiry Officer, Disciplinary Authority and



Appellate Authority considered examination-in-chief of the witnesses.

13. With regard to second show cause notice, the petitioner failed to establish as to what prejudice caused to the petitioner. The petitioner himself was examined by the Enquiry Officer. Further there is concurrent findings of facts recorded by the Disciplinary Authority and the Appellate Authority. The complainants have proved allegations made against the petitioner and their evidence remained uncontroverted. It is also well settled principles of law that in the matter departmental enquiry reappreciation of evidence is not permissible. The petitioner has not challenged the competence of the Disciplinary Authority and there is no allegation that the principles of natural justice were not followed.
14. The Hon'ble Supreme Court dealing with the scope of judicial review in matter of Departmental Enquiry in case of ***Union of India and Others Vs. P. Gunasekaran***, reported in ***(2015) 2 SCC 610*** in paras- 12 and 13 held as under:-

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;
- (b) the enquiry is held according to the procedure prescribed in that behalf;
- (c) there is violation of the principles of natural justice in conducting the proceedings;



(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based;

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience."

15. The Hon'ble Supreme Court dealing with the similar issue in case of

State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya,

reported in **(2011) 4 SCC 584** in para- 7 held as under:-

"7. It is now well settled that the courts will not act as an appellate court and reassess the



evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide *B.C. Chaturvedi v. Union of India*, (1995) 6 SCC 749; *Union of India v. G. Ganayutham*, (1997) 7 SCC 463; *Bank of India v. Degala Suryanarayana*, (1999) 5 SCC 762 and *High Court of Judicature at Bombay v. Shashikat S. Patil*, (2000) 1 SCC 416)"

16. In the present case, the petitioner has not challenged the procedure followed in the departmental enquiry. He has also not raised ground of violation of the principles of natural justice, therefore, there is no need to deal with those issues.
17. Taking into consideration the law laid down by the Hon'ble Supreme Court in the matters **P. Gunasekaran** (supra) and **Nemi Chand Nalwaya** (supra), no case is made out for interference.
18. Consequently, the petition fails and is hereby **dismissed**. No cost(s).

Sd/-
(**Rakesh Mohan Pandey**)
Judge