



2026:CGHC:21757

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2680 of 2022

1 - Dharamveer Singh Dhruw S/o Shri Mr Dhruw, Aged About 38 Years R/o Pride Residency, Quarter No. A/39, Khamtarai Road, Sarkanda, Bilaspur, Police Station Sarkanda, Tahsil And District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Its Secretary, Department Of Public Health And Family Welfare, Mahanadi Bhawan, Mantralaya, Police Station And Post Rakhi, Atal Nagar, New Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

2 - Controller, Office Of Controller, Department Of Food And Drug Administration, Block-1, 4th Floor, Indravati Bhavan, Atal Nagar, Police Station And Post Rakhi, New Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

3 - Assistant Drug Controller/ 1st Enquiry Officer, Office Of Deputy Director, Department Of Food And Drug Administration, Durg, District Durg Chhattisgarh, District : Durg, Chhattisgarh

4 - Assistant Drug Controller, Presenting Officer, Office Of Controller, Department Of Food And Drug Administration, Block-1, 4th Floor, Indravati Bhavan, Atal Nagar, Police Station And Post Rakhi, New Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

5 - Assistant Statistical Officer, Presenting Officer, Office Of Controller, Department Of Food And Drug Administration, Block-1, 4th Floor, Indravati Bhavan, Atal Nagar, Police Station And Post Rakhi, New Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

... Respondent(s)

For Petitioner/s	:	Shri Abhishek Pandey, Advocate alongwith Shri Rishabhdev Sahu, Advocate.
For Respondents/ State	:	Shri Amandeep Singh, P.L.

Hon'ble Shri Justice Rakesh Mohan Pandey
Judgment On Board

08.05.2026

1) By way of this petition, the petitioner has sought following reliefs:-

“(i) That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to produce all the relevant records relating to case of the petitioner before this Hon'ble Court for its kind perusal.

(ii) That this Hon'ble Court may kindly be pleased to set aside the impugned order dated 7.12.2021 (Annexure P/5) passed by respondent No. 1/Secretary. Department of Public Health and Family Welfare, Raipur (CG).

(iii) That this Hon'ble court may kindly be pleased to Set aside / Quashed the impugned letter dated 15/03/2022 issued by Respondent No 2 Controller /Enquiry officer (Annexure P/11).

(iv) That, this Hon'ble Court may kindly be pleased to direct respondent No.2/Controller, Department of Food and Drug Administration, Raipur to take final decision in the departmental enquiry proceedings conducted against the petitioner according to the final enquiry report dated 23.11.2021 (Annexure P/4) submitted by respondent No.3/Assistant Drug Controller/1st Enquiry Officer, Durg (CG).

(v) That this Hon'ble Court may further be pleased to direct respondents to give suitable compensation to the petitioner for the mental trauma and agony, harassment and hardships suffered by him as also cost of the litigation.”

- 2)** The facts, in brief, are that on 10.7.2015, the petitioner was appointed to the post of Drug Inspector by respondent No.2/ Controller, Department of Food and Drug Administration, Raipur. On 27.02.2020, on the basis of certain allegations leveled against the petitioner, respondent No.2/ Controller, Raipur issued a charge-sheet, which was duly replied. However, on 4.3.2020, respondent No.2/ Controller, Department of Food and Drug Administration, Raipur being dissatisfied with the reply submitted by the petitioner, placed him under suspension. Thereafter, on 18.8.2020, respondent No.2 appointed respondent No.3/ Assistant Drug Controller, Durg as Enquiry Officer and respondent No.5/ Assistant Statistical Officer, Raipur as Presenting Officer who conducted departmental enquiry proceedings against the petitioner according to the provisions of Chhattisgarh Civil Services (Classification. Control and Appeal) Rules, 1966 (for short, 'the Rules of 1966'). The Enquiry Officer in its report dated 23-11-2021 did not find allegations prove against the petitioner. A copy of the report was supplied to the petitioner and was also forwarded to respondent No.1/ Secretary, Department of Public Health and Family Welfare, Raipur. Thereafter, respondent No.1 being dissatisfied with the final enquiry report appointed respondent No.2 as Enquiry Officer and respondent No.4 as Presenting Officer. Feeling aggrieved against the said order, the present petition has been filed.
- 3)** Learned counsel for the petitioner, submits that the disciplinary authority having disagreed with the findings recorded by the Enquiry Officer, was required to record its reasons firstly as required under

Rule 15 (2) of the Rules of 1966 and further could have recorded its own reasons on such charges on the basis of material available on record, but this course was not adopted. He would pray to allow this petition.

- 4) On the other hand, learned counsel appearing for the State would submit that respondent No.1 passed the order dated 7.12.2021 strictly in accordance with law and the disciplinary authority having disagreed with the findings of the Enquiry Officer assigned reasons, therefore, the writ petition deserves to be dismissed.
- 5) I have heard learned counsel for the parties and considered the rival submissions made herein-above and also gone through the record with utmost circumspection.
- 6) It is not in dispute that disciplinary authority ought to have followed the procedure envisaged in the Rules of 1966. The Rule 15 (2) provides that if the disciplinary authority disagrees with the findings of the Enquiry Officer, he has to assign reasons. Rule 15 (2) of the Rules, 1966 states as follows: -

“Rule 15 (2) – Further action if Disciplinary Authority if disagrees with the findings of Enquiry Authority.

(2) The Disciplinary authority shall, if it disagrees with the findings of the Inquiring Authority on any article of charge, record its reasons for the such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.”
- 7) A focused glance of the aforesaid Rule would show that in the event the disciplinary authority disagrees with the findings of the Enquiry

Officer, he has to record its separate reasons for such disagreement and he is also obliged to record its own findings pertaining to such charge and in that case the principles of natural justice have to be complied with by communicating the reasons of disagreement to the delinquent employee, and after reply is filed, the disciplinary authority has to record its own findings on all such charges on which the Enquiry Officer has assigned its reasons and in order to record punishment, such a procedure is imperative.

- 8) The point is no longer res integra and the Supreme Court in the matter of Yoginath D. Bagde v. State of Maharashtra and another¹ has considered the issue holding as under in paragraphs 28 & 31: -

“28. Such an opportunity may either be provided specifically by the Rules made under Article 309 of the Constitution or the Disciplinary Authority may, of its own, provide such an opportunity. Where the Rules are in this regard silent and the Disciplinary Authority also does not give an opportunity of hearing to the delinquent officer and records findings, different from those of the Inquiring Authority that the charges were established, "an opportunity of hearing" may have to be read into the Rule by which the procedure for dealing with the Inquiring Authority's report is provided principally because it would be contrary to the principles of natural justice if a delinquent officer, who has already been held to be not guilty' by the Inquiring Authority, is found guilty' without being afforded an opportunity of hearing on the basis of the same evidence and material on which a finding of "not guilty" has already been recorded."

1 (1999) 7 SCC 739

"31. The delinquent employee has the right of hearing not only during the enquiry proceedings conducted by the Enquiry Officer into the charges levelled against him but also at the stage at which those findings are considered by the Disciplinary Authority and the latter, namely, the Disciplinary Authority forms a tentative opinion that it does not agree with the findings recorded by the Enquiry Officer. If the findings recorded by the Enquiry Officer are in favour of the delinquent and it has been held that the charges are not proved, it is all the more necessary to give an opportunity of hearing to the delinquent employee before reversing those findings. The formation of opinion should be tentative and not final. It is at this stage that the delinquent employee should be given an opportunity of hearing after he is informed of the reasons on the basis of which the Disciplinary Authority has proposed to disagree with the findings of the Enquiry Officer. This is in consonance with the requirement of Article 311(2) of the Constitution as it provides that a person shall not be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. So long as a final decision is not taken in the matter, the enquiry shall be deemed to be pending. Mere submission of findings to the Disciplinary Authority does not bring about the closure of the enquiry proceedings. The enquiry proceedings would come to an end only when the findings have been considered by the Disciplinary Authority and the charges are either held to be not proved or found to be proved and in that event punishment is inflicted upon the delinquent. That being so, the "right to be heard" would be available to the delinquent up to the final stage. This

right being a constitutional right of the employee cannot be taken away by any legislative enactment or Service Rule including Rules made under Article 309 of the Constitution.”

9) In view of the aforesaid legal position as it stands the impugned order dated 7.12.2021 passed by respondent No.1 as of now in the present case, thus is clearly in violation of the rule 15(2) of the rules of 1966 and is also in violation of the mandate of the Supreme Court in the case of **Yoginath D. Bagde** (Supra). The impugned order dated 7.12.2021 is not sustainable and the same deserves to be and is accordingly set aside. However, right of the respondent stands reserved and if they intend to defer with the finding of the enquiry officer and intend to proceed further, the Disciplinary authority may do so in accordance with the rules and regulations and also keeping in view the observations made by the Supreme Court in the case of **Yoginath D. Bagde** (Supra).

10) The writ petition is allowed to the extent indicated herein-above. No order as to costs.

Sd/-
(Rakesh Mohan Pandey)
JUDGE