



2026:CGHC:14757



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 3980 of 2018**

Smt. Krishna Roy Choudhary W/o W/o Shri S. K. Roy, Aged About 61 Years
Post Lower Division Teacher, R/o Village Kangoli, L.I.C. Road, P. O.
Dharampura, No.2 Tahsil Jagdalpur, District- Bastar, Chhattisgarh., District :
Bastar(Jagdalpur), Chhattisgarh

... Petitioner**versus**

- 1** - State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Ministry Mahanadi Bhavan, New Raipur, District Raipur, Chhattisgarh.
- 2** - The Commissioner, Bastar Division, Jagdalpur, District- Bastar, Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh.
- 3** - The Collector, District Bastar, Jagdalpur, Chhattisgarh.
- 4** - District Education Officer, Jagdalpur, District Bastar, Chhattisgarh.
- 5** - Block Education Officer, Block Jagdalpur, District- Bastar, Chhattisgarh.

... Respondent(s)

For Petitioner	:	Mr. Alok Dewangan, Advocate
For State	:	Mr. Topilal Bareth, Panel Lawyer

Hon'ble Shri Justice Rakesh Mohan Pandey**Order on Board****30/03/2026**

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

"10.1. That the Hon'ble Court may kindly be pleased to set aside the Order dated 12/06/2017 passed by the Court of Commissioner, Bastar Division Jagdalpur, District Bastar, C.G. arising out of order Kramank/2481/Stha. -3 /Vi. Ja./2016, dated 04/05/2016



passed by the Collector, District Bastar, C.G. and thus consequential action taken by the Respondents against the petitioner may kindly be quashed.

10.2. That the Hon'ble Court may kindly be pleased to direct the respondent authorities to release the salary for the period 30/10/2015 to 17/03/2016 (04 months and 19 days.) I.e.; for the period declared as dies non.

10.3. That the Hon'ble Court may kindly be pleased to direct the respondent authorities to quash the penalty imposed upon the petitioner withholding of an increment with cumulative effect.

10.4. That, any other writ, directions or relief which this Hon'ble Court may deem fit may kindly be passed in favour of the petitioner."

2. Brief facts of the are that on 30.10.2015, the petitioner, while posted at a school, was found sleeping during her duty hours at the time of inspection conducted by Shri Nikhelesh Hari (PMRDF), which led to her suspension and initiation of a departmental enquiry for negligence and dereliction of duty and penalty of withholding one annual increment with cumulative effect was imposed and treated the suspension period as *dies non*. Appeal was preferred by the petitioner and same was dismissed by the Divisional Commissioner, Bastar Division, on 12.06.2017, and thereafter, the present writ petition has been filed .
3. Learned counsel appearing for the petitioner would submit that the petitioner was not provided opportunity to cross-examine the witnesses. He would further submit that the examination of witnesses was incomplete and the petitioner was not allowed to cross-examine



them, therefore, the order(s) passed by the disciplinary authority, and affirmed by the appellate authority, are illegal and bad in law. He would also submit that the Enquiry Officer failed to follow the provisions contained in Rule 14 (3) of the Chhattisgarh Civil Services (Classification, Control & Appeal) Rules, 1966 (for short, the Rules, 1966); thus, the petition deserves to be allowed.

4. On the other hand, learned counsel appearing for the State would submit that sufficient opportunity of hearing was provided to the petitioner. He would further submit that no application was moved by the petitioner before the Enquiry Officer seeking permission to cross-examine the witnesses. He would contend that the petitioner herself admitted that she was taking rest on 30.10.2015 due to her medical condition. He would also contend that on 28.10.2015 and 30.10.2015, the students were found playing in the playground during inspections, therefore, the disciplinary authority rightly passed the order in accordance with Rule 14 of the Rules, 1966, and thus, the petition deserves to be dismissed.
5. I have heard learned counsel for the parties and perused the documents.
6. Admittedly, on 28-10-2015, the Collector of Bastar conducted a surprise inspection of Dharampura Secondary School No. 2, Jagdalpur, and found students playing even after the lunch break. The matter was



taken seriously, and directions were issued to follow proper school timings. Subsequently, Shri Nikhilesh Hari, P.M.R.D.F. on 30-10-2015 at 12:45 pm, also conducted a surprise inspection of the same institution and again observed students playing in the premises till 1:07 pm. Later, at around 2:00 pm, during inspection, Assistant Teacher Mrs. Krishna Rai was found sleeping in a classroom on a bed formed by benches after placing a *chadar* (bed-sheet) and pillow, during duty hours. The said act of the petitioner amounted to negligence and dereliction of duty, thereafter, the petitioner was placed under suspension by the Collector, District Bastar, vide order dated 30.10.2015. Further, taking into account the gravity of the misconduct, a departmental enquiry was conducted against the petitioner.

7. A charge-sheet dated 23.11.2015 was issued to the petitioner, levelling two charges against her, along with the statement of charges, list of documents, and list of witnesses, and her reply was sought. The reply submitted by the petitioner to the charge-sheet was found to be unsatisfactory, thereafter, vide order dated 02.02.2016, the Principal, Government Higher Secondary School, Dharampura, Jagdalpur, was appointed as the Inquiry Officer, and a Lecturer of Government Higher Secondary School No. 2 was appointed as the Presenting Officer to conduct the departmental enquiry.



8. The Inquiry Officer conducted a full-fledged departmental enquiry in accordance with law, in which the petitioner duly participated. During the enquiry, the statements of the petitioner as well as the prosecution witnesses were recorded. The petitioner was afforded adequate opportunity to defend herself, including the opportunity to adduce evidence and cross-examine the witnesses. No objection was raised by the petitioner or her defence witnesses regarding the conduct or initiation of the departmental enquiry. Upon appreciation of the material available on record and the statements recorded during the enquiry, the Inquiry Officer found Charge No. 1 proved against the petitioner and submitted the enquiry report on 17.03.2016, thereafter, the Collector, District Bastar, after considering the enquiry report and the statement of the petitioner and vide order dated 04.05.2016, inflicted penalty of withholding one annual increment with cumulative effect and declared the suspension period as *dies non*, against which, the petitioner preferred an appeal before the Divisional Commissioner, Bastar Division. The Appellate Authority, after considering the material and evidence on record, dismissed the appeal vide order dated 12.06.2017.
9. The scope and power of judicial review of the Courts while dealing with the validity of the quantum of punishment imposed by the disciplinary authority was the subject matter of discussion before the Hon'ble Supreme Court in ***Life Insurance Corporation of India and others vs.***



S. Vasanthi [(2014) 9 SCC 315], wherein it was reiterated that the High

Court in the exercise of its powers of judicial review cannot assume the role of sitting as a departmental appellate authority as the same is not permissible under law. It shall be apt to reproduce paras 10 and 11 of the judgment which read thus:-

"10. The scope and power of judicial review of the courts while dealing with the validity of quantum of punishment imposed by the disciplinary authority is now well settled. In **Kendriya Vidyalaya Sangathan v. J. Hussain (2013) 10 SCC 106**, the law on this subject, is recapitulated in the following manner: (SCC pp.110-12, paras 7-10)

"7. When the charge is proved, as happened in the instance case, it is the disciplinary authority with whom lies the discretion to decide as to what kind of punishment is to be imposed. Of course, this discretion has to be examined objectively keeping in mind the nature and gravity of charge. The Disciplinary Authority is to decide a particular penalty specified in the relevant Rules. Host of factors go into the decision making while exercising such a discretion which include, apart from the nature and gravity of misconduct, past conduct, nature of duties assigned to the delinquent, responsibility of duties assigned to the delinquent, previous penalty, if any, and the discipline required to be maintained in department or establishment where he works, as well as extenuating circumstances, if any exist....

11. We are of the opinion that the High Court transgressed its limits of judicial review by itself assuming the role of sitting as departmental appellate authority, which is not permissible in law. The principles discussed above have been summed up and summarized as follows in the case of **Lucknow Kshetriya Gramin Bank . v. Rajendra Singh, (2013) 12 SCC 372 (SCC p.382, , para 19):-**



"19.1. When charge(s) of misconduct is proved in an enquiry, the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The courts cannot assume the function of of disciplinary/ departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent rt authority.

19.3 Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.

19.4 Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co- delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with



unqualified apology, lesser punishment to him would be justifiable."

10. From the above proposition of law, it is well settled that the High Court in exercise of its powers of judicial review cannot assume the role of sitting as a departmental appellate authority. The limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.
11. In the present case, the petitioner has failed to establish that any application was filed seeking permission to cross-examine the witnesses. The record reflects that sufficient opportunity of hearing was afforded to the petitioner. It is also evident from the petitioner's own admission that she was taking rest on the date of inspection due to her medical condition.
12. It is not in dispute that on 28.10.2015 and 30.10.2015, the Collector and PMRDF found the students playing in the playground even after lunch hours, and the petitioner was found sleeping during class hours by joining two benches together; thus, she was placed under suspension, and departmental enquiry was initiated against her, whereby, allegation levelled against the petitioner was found proved and accordingly penalty of stoppage of one increment with cumulative effect was inflicted and the period of suspension was declared as dies non.



13. Taking into consideration the above discussed facts and law, the petition filed by the petitioner is hereby **dismissed**. No order as to costs.

Sd/-

Rakesh Mohan Pandey

JUDGE

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