



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4200 of 2021

1 - Tapan Kumar Ghosh, S/o Late Shri N.N. Ghosh, Aged About 64 Years
Occupation - Retired Driver, R/o. D.N.K. Colony, Kondagaon, District Kondagaon
Chhattisgarh., District : Kondagaon, Chhattisgarh

... Petitioner(s)

versus

1 - Chhattisgarh State Power Distribution Company Limited, Vidyut - Sewa -
Bhawan, Danganiya Raipur, District - Raipur Chhattisgarh., District : Raipur,
Chhattisgarh

2 - The Executive Director, Chhattisgarh State Power Distribution Company Limited,
Jagdalpur, District Bastar Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh

3 - The Executive Engineer (O And M) Division, Chhattisgarh State Power
Distribution Company Limited, Bijapur, District Bijapur Chhattisgarh., District :
Bijapur, Chhattisgarh

... Respondent(s)

(Cause Title is taken from Case Information System)

For Petitioner/s	:	Ms. Ruchi Nagar, Advocate holding the brief of Shri Kshitij Sharma, Advocate.
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For Respondent/s	:	Mr. K.R. Nair, Advocate.
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Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

20.03.2026

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

“10.1 That the Hon'ble Court may be pleased to issue appropriate writ/order/direction commanding authorities to produce the entire record pertaining to the petitioner's case.

10.2 That the Hon'ble Court may be pleased to issue appropriate writ/order/direction quashing the impugned communication dated 25.02.2019 (Annexure P-2) since the same has been passed without any reason and justification.

10.3 That the Hon'ble Court may be pleased to issue appropriate writ/order/direction quashing the impugned communication dated 08.07.2019 (Annexure P-1) since the same has been passed without adherence to the Principles of Natural Justice and moreover the same is arbitrary, illegal and without any justification.

10.4 That the Hon'ble Court may be pleased to issue appropriate writ/order/direction commanding the respondents to sanction the leave for the period from 18.11.2017 to 06.05.2018, with full pay and other service benefits. Consequently the Respondents be directed to make the payment to the petitioner expeditiously.

10.5 Costs of the petition.

10.6 Any other relief(s), direction(s), which Hon'ble the Court deems fit, and proper, in the circumstances of the case.”

2. Learned counsel for the petitioner would submit that the petitioner was working as a driver in the office of the Assistant Engineer, CSPDCL, Bijapur. She would submit that the petitioner was seriously ill in the second week of November, 2017, therefore, he moved an application for post facto leave. She would submit that the respondent/ Executive Engineer inflicted the penalty of censure on the ground that the petitioner remained absent for 170 days from 18.11.2017 to 6.5.2018,

vide order dated 25.2.2019. It is further submitted that vide order dated 8.7.2019, the said period of 170 days was treated as extraordinary leave without pay. She would submit that the petitioner was not afforded opportunity of hearing as no show-cause notice was issued. She would submit that in matters of such nature, which entail adverse consequences, an opportunity of hearing ought to have been provided to the petitioner. She would pray to set aside both the orders.

3. On the other hand, Shri K.R. Nair, learned counsel appearing for the respondents would oppose the submissions advanced by counsel for the petitioner. He would submit that the petitioner willfully remained absent from duty for a period of 170 days. He would contend that the decision was taken by the respondent authorities in accordance with the applicable leave Rules. He would submit that the petitioner ought to have preferred an appeal against both the orders and therefore, this petition is not maintainable.
4. I have heard learned counsel for the parties and perused the documents present on record.
5. It is not in dispute that against the order of penalty appeal lies before the Appellate Authority. However, a writ petition can be entertained if there is a violation of principles of natural justice or if the order has been passed by an incompetent authority, or is otherwise ultra vires. In the present case, the petitioner remained absent on account of ill health for a period of 170 days. However, without affording any opportunity of hearing, the respondent authorities inflicted penalty of censure and subsequently treated the said period as extra-ordinary leave without pay. The orders which have been passed by the

respondent authorities have adverse consequences and therefore, the respondent authorities ought to have provided sufficient opportunity of hearing to the petitioner.

6. Accordingly, the orders passed by the respondents (Annexure-P/1 and P/2) are hereby quashed. The respondent authorities would be at liberty to initiate fresh proceedings, if so advised and shall provide sufficient opportunity of hearing to the petitioner. Any decision shall be taken by the respondent authorities only after affording such opportunity.

7. Accordingly, this writ petition is disposed of.

Sd/-
(Rakesh Mohan Pandey)
Judge