



CGHC010264782019

2026:CGHC:37943

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (Service) No. 6010 of 2019

Nandkishor Agrawal S/o Shri R.A. Agrawal Aged About 62 Years
Retd. Divisional Manager, Rajya Van Vikas Nigam R/o D-1 Shraddha
Niwas, New Gayatri Nagar, Raipur District Raipur Chhattisgarh,
District : Raipur, Chhattisgarh

... Petitioner

versus

**1 - Chhattisgarh Rajya Van Vikas Nigam Through Its Managing
Director, Head Office, Office Campus, Block 7-A, Sec - 24, Nawa
Raipur, Atal Nagar Distric Raipur Chhattisgarh, District : Raipur,
Chhattisgarh**

**2 - Chairman Chhattisgarh Rajya Van Vikas Nigam Head Office,
Office Campus, Block 7-4, Sec - 24, Nawa Raipur, Atal Nagar
District Raipur Chhattisgarh, District : Raipur, Chhattisgarh**

**3 - Managing Director Chhattisgarh Rajya Van Vikas Nigam Head
Office, Office Campus, Block 7-4 Sec -24, Nawa Raipur, Atal Nagar
District Raipur Chhattisgarh, District : Raipur, Chhattisgarh**

... Respondents

Cause-title taken from Case Information System (CIS)

For Petitioner : Mr. Ashutosh Mishra, Advocate
For Respondents: Mr. AS Kachwaha, Advocate and
Mr. Sharad Mishra, Panel Lawyer respectively

Single Bench: Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

24/08/2026

1. The short question involved in this petition is whether the
respondent-Nigam has power to continue the departmental



proceedings against the petitioner after his superannuation without there being any express provision in the applicable service rules/regulation.

2. Facts of the case, in short, is that the petitioner was working as Divisional Manager with the respondent- Nigam and he was subjected to charge-sheet on 24.07.2019 (Annexure-P/01), however, on 31.07.2019, on attaining the age of superannuation, he stood retired. Thereafter, the petitioner filed this writ petition on 05.08.2019 with the plea that in the Chhattisgarh Rajya Van Vikas Nigam Employees Service Regulation, 1984 (for short the “Regulation of 1984”) there is no provision for continuation of department enquiry after superannuation, therefore, the department proceedings cannot be continued and same is liable to be quashed.

3. This Court vide order dated 13.08.2019 stayed the effect and operation of the charge-sheet dated 24.07.2019 and, thereafter, vide order dated 11.08.2026 further directed the parties to file affidavits clearly indicating whether the applicable rules provide for continuation of department enquiry after superannuation or not. In compliance thereof, the respondents have filed affidavit on 20.08.2026, in which, no rule has been pointed out enabling the department to continue the departmental enquiry after superannuation, indeed, only definition of the employee is referred under Rule 136.



4. Mr. Ashutosh Mishra, learned counsel for the petitioner would submit that petitioner's services are governed by the Regulation of 1984, which is completely silent about continuation of the department enquiry after superannuation of an employee. As such, there is no authority or jurisdiction to the respondent-authority for continuation of the departmental enquiry after superannuation of the petitioner, therefore, the same is liable to be set aside.

5. On the other hand, learned counsel for the respondents opposes the submissions made by learned counsel for the petitioner and prays for dismissal of this petition.

6. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the record with utmost circumspection.

7. True it is that the services of the petitioner was governed by the Regulation of 1984, in which, there is no express provision authorizing the respondents-authorities for continuation of the departmental enquiry after superannuation of the petitioner. Thus, in absence of provision in this regard, in service rules, relevant judgments on this issue may be noticed usefully herein as issue in question has been considered by the Supreme Court on number of occasions. Following decisions may be noticed herein usefully:-

7.1 In a Constitution Bench judgment in the matter of **S. Pratap Singh v. State of Punjab**¹, Their Lordships of the Supreme Court

¹ AIR 1964 SC 72



have clearly held that there has to be a specific provision under the law to take action against the person who has ceased to be in service.

7.2 As back as, in the matter of **State Bank of India v. A.N.Gupta and others**², Their Lordships of the Supreme Court have categorically held that once an employee ceased to be in the service of the bank, continuation of disciplinary proceedings was not permissible unless there was a specific provision to this effect in the relevant rules.

7.3 Thereafter, in the matter of **Bhagirathi Jena v. Board of Directors, O.S.F.C. and others**³ it has been held by Their Lordships of the Supreme Court that in the absence of specific provision in the relevant rules applicable to the public servant, the respondent-Corporation had no legal authority to make any reduction in the retiral benefits of the appellant and held as under:-

“6. It will be noticed from the abovesaid regulations that no specific provision was made for deducting any amount from the provident fund consequent to any misconduct determined in the departmental enquiry nor was any provision made for continuance of the departmental enquiry after superannuation.

7. In view of the absence of such a provision in the abovesaid regulations, it must be held that the Corporation had no legal authority to make any reduction in the retiral benefits of the appellant. There is also no provision for conducting a disciplinary enquiry after retirement of the appellant and nor any provision stating that in case misconduct is established, a deduction could be made from retiral

² (1997) 8 SCC 60

³ (1999) 3 SCC 666



benefits. Once the appellant had retired from service on 30-6-1995, there was no authority vested in the Corporation for continuing the departmental enquiry even for the purpose of imposing any reduction in the retiral benefits payable to the appellant. In the absence of such an authority, it must be held that the enquiry had lapsed and the appellant was entitled to full retiral benefits on retirement.”

7.4 Similarly, in the matter of State of U.P. and others v. Harihar Bholenath⁴, Their Lordships of the Supreme Court have also taken the note of decision rendered by this Court in the matter of **Bhagirathi Jena** (supra).

7.5 The law laid-down by Their Lordships of the Supreme Court in the matter of **Bhagirathi Jena** (supra) has been followed with approval by the Supreme Court in the matter of Girijan Cooperative Corporation Limited, Andhra Pradesh v. K. Satyanarayana Rao⁵ and it has been observed in paragraph 14 and 16 as under:-

“14. There cannot be any doubt or dispute that an employer can initiate a disciplinary proceedings and/or continue the same only in terms of the rules framed by it. It is also a well-settled law that the disciplinary proceedings are initiated only when a charge-sheet is issued.

16. In absence of any rules, therefore, a disciplinary proceeding against a retired employee should not have been continued. The judgment of the High Court, in our opinion, cannot be said to be faulty. We, however, keeping in view the subsequent documents brought before us by the appellant, would observe that, in future, in any other case or before any other authority, the Corporation would be at liberty to

4 (2006) 13 SCC 460

5 (2010) 15 SCC 322



place all the relevant documents and to that effect the question of law raised by the appellant herein shall remain open.”

7.6 In the matter of Dev Prakash Tewari v. Uttar Pradesh Cooperative Institutional Service Board, Lucknow and others⁶, judgment rendered in the matter of **Bhagirathi Jena** (supra) was followed with approval by the Supreme Court and held that once the concerned employee is retired from service, continuation of disciplinary proceeding is bad in law by observing in paragraph 8 as under:-

“8. Once the appellant had retired from service on 31-3-2009, there was no authority vested with the respondents for continuing the disciplinary proceeding even for the purpose of imposing any reduction in the retiral benefits payable to the appellant. In the absence of such an authority it must be held that the enquiry had lapsed and the appellant was entitled to get full retiral benefits.”

7.7 Very recently, the principles of law laid down in **Bhagirathi Jena** (supra) has further been followed with approval in the matter of Kadirkhan Ahmedkhan Pathan v. Maharashtra State Warehousing Corporation and others⁷, wherein it has been held as under:-

“33. In light of the above discussions and in view of the judgments referred hereinabove, the irresistible conclusion can be drawn that the Corporation had no jurisdiction to institute the departmental proceedings against the appellant for the alleged

6 (2014) 7 SCC 260

7 (2026) 3 SCC 252



misconduct and to direct recovery against him applying 1982 Pension Rules. As such the questions as posed hereinabove are answered in favour of the appellant against the Corporation.”

8. In view of the aforesaid binding judgments of the Supreme Court, the crystallized legal position as on day is that once an employee ceased to be in the service, departmental enquiry lapses and disciplinary proceeding is not permissible unless there is a specific provision in the relevant service rules directing continuance of the department enquiry after superannuation. As such, the inevitable consequence of absence of such enabling provision in the Regulation of 1984 would be that the respondent- Nigam is denude of its authority to continue the disciplinary proceedings after the petitioner stood superannuated from Nigam employment on 31.7.2019 and necessary fall out would be that disciplinary proceeding issued vide charge-sheet dated 24.07.2019 (Annexure P/1) deserves to be and is hereby quashed.

9. Accordingly, the writ petition is **allowed** to the extent indicated hereinabove. No order as to cost(s).

sd/-
(Sanjay K. Agrawal)
Judge