



2026:CGHC:15191

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5910 of 2021

- Sunil Kumar Dewangan S/o Late Shri N. L. Dewangan Aged About 65 Years
R/o Quarter No. 3B, Street No. 41, Sector-7, Bhilai Nagar, District Durg
Chhattisgarh

... Petitioner

versus

1. State Of Chhattisgarh through : Secretary, Forest Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Chhattisgarh State Forest Development Corporation Ltd. through its Managing Director, Chhattisgarh State Forest Development Corporation Ltd. Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
3. Managing Director, Chhattisgarh State Forest Development Corporation Ltd., Principal Office Campus, Block 7A, Sector-24, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh

... Respondent(s)

For Petitioner	: Mr. Rishabh Gupta, Advocate holding the brief of Mr. Anurag Singh, Advocate
For State	: Mr. Topilal Bareth, Panel Lawyer
For Respondents No. 2 & 3	: Mr. Suyashdhar Badgaiya, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

02.04.2026

1. By way of this petition, the petitioner has sought the following relief(s):-

“10.1 That, this Hon'ble Court may kindly be pleased to issue a writ/writs, direction/directions, order/orders quashing the impugned order dated 25.08.2021, passed by the appellate authority/Managing Director, Chhattisgarh State Forest Development Corporation Limited and the

appeal preferred by the petitioner may kindly be allowed and the order of punishment may kindly be set-aside and petitioner may kindly be granted all the consequential benefits.

10.2 That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case.”

2. Facts in brief are that the petitioner was appointed on the post of Assistant Project Range Officer under the respondents No. 2 & 3 on 27.12.1978. He would contend that an article of charge was served upon the petitioner on 31.05.2011 making three major allegations with regard to misappropriation of funds. The disciplinary authority i.e. respondent No. 3 appointed enquiry officer and presenting officer. An enquiry was conducted and a report was submitted before the disciplinary authority on 24.08.2013. The disciplinary authority disagreed with the findings recorded by the enquiry officer on point No. 1 & 2 of allegation No. 1, and vide order dated 22.08.2014 explanation was sought for by the Additional Managing Director in this regard and pursuant to said order a fresh departmental enquiry was initiated against the petitioner, wherein, all the charges have been found proved and disciplinary authority inflicted penalty of stoppage of two annual increments with cumulative effect vide order dated 29.11.2016. The petitioner filed an appeal before the appellate authority but the same was dismissed vide order dated 23.01.2021, thereafter, WPS No. 1620 of 2021 was preferred and vide order dated 08.04.2021 matter was remitted back to the appellate authority to decide the matter on merits. The appellate authority upheld the earlier order of stoppage of two increments with cumulative effect vide order dated 25.08.2021, against the said order instant petition has been filed.

3. Mr. Rishabh Gupta, Advocate would submit that the disciplinary authority while disagreeing with the findings recorded by the Enquiry Officer should have afforded an opportunity of hearing. He would submit that decision was taken by the disciplinary authority vide order dated 22.08.2014 behind the back of the petitioner. He would submit that the order passed by the disciplinary authority dated 22.08.2014 and subsequent order dated 25.08.2021 are bad in law. He has placed reliance on the judgment passed by the Hon'ble Supreme Court in the matter of *Yoginath D. Bagde vs. State of Maharashtra and Another* reported in (1999) 7 SCC 739.
4. On the other hand, Mr. Badgaiya, Advocate appearing for respondents No. 2 & 3 would oppose the submissions advanced by Mr. Rishabh Gupta. Mr. Badgaiya would submit that there were serious allegations against the petitioner and full fledged departmental enquiry was conducted. He would submit that the enquiry officer partly found proved point No. 1 & 2 of allegation No. 1. He would submit that disciplinary authority while exercising power conferred under Rule 130 (2) of Chhattisgarh Rajya Van Vikas Nigam Ltd. Employees Service Rules, 1984 (for short "Rules, 1984") recorded his disagreement with the findings arrived at by the enquiry officer. He would submit that there was no occasion for the disciplinary authority to afford opportunity of hearing. He would contend that according to Rules, 1984, there was no requirement to afford opportunity of hearing or record reasons while recording disagreement with the findings arrived at by the enquiry officer. He would submit that the allegations have been found proved and penalty has already been inflicted, and therefore, this petition deserves to be dismissed.

5. I have heard learned counsel for the parties and perused the documents placed on record.
6. Admittedly, petitioner was served with an article of charge. A departmental enquiry was initiated against him and an enquiry report was submitted before the disciplinary authority on 24.08.2013. In the departmental enquiry, the enquiry officer found point No. 1 & 2 of allegation No. 1 partly proved. The disciplinary authority while exercising power under Rule 130(2) of Rules, 1984 disturbed the findings and recorded his disagreement. It is apparent from perusal of order passed by the disciplinary authority dated 22.08.2014 that reasons were not specified. Pursuant to order passed by the disciplinary authority subsequent enquiry was conducted and petitioner has been inflicted with penalty of stoppage of two increment with cumulative effect.
7. The issue involved in the present case is no more *res integra*. The disciplinary authority was under obligation to afford opportunity of hearing to the petitioner while recording his disagreement with the findings arrived at by the enquiry officer. The Hon'ble Supreme Court in the matter of **Yoginath D. Bagde** (supra) in para 28 held as under :-

“28. In view of the provisions contained in the statutory Rule extracted above, it is open to the disciplinary authority either to agree with the findings recorded by the enquiring authority or disagree with those findings. If it does not agree with the findings of the enquiring authority, it may record its own findings. Where the enquiring authority has found the delinquent officer guilty of the charges framed against him and the disciplinary authority agrees with those findings, there would arise no difficulty. So also, if the enquiring authority has held the charges proved, but the disciplinary authority disagrees and records a finding that the charges were not

established, there would arise no difficulty. Difficulties have arisen in all those cases in which the enquiring authority has recorded a positive finding that the charges were not established and the delinquent officer was recommended to be exonerated, but the disciplinary authority disagreed with those findings and recorded its own findings that the charges were established and the delinquent officer was liable to be punished. This difficulty relates to the question of giving an opportunity of hearing to the delinquent officer at that stage. 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 enquiring 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 enquiring 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.

8. Taking into consideration facts of the present case and the law laid down by the Hon'ble Supreme Court, the order passed by the disciplinary authority dated 22.08.2014 and subsequent order dated 25.08.2021 are hereby **quashed**. The matter is remitted back to the disciplinary authority to pass fresh order after affording due opportunity of hearing to the petitioner strictly in accordance with the Rule 130 (2) of Rules, 1984.

9. Accordingly, this petition is **allowed**.

Sd/-
(Rakesh Mohan Pandey)
JUDGE

Siddhant