



2026:CGHC:4258

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 9195 of 2023

1 - Natthulal Vastrakar S/o. Ramu Vastrakar, Aged About 80 Years R/o. Village Parsada, Post Office Bharni, Via Ganiyari District - Bilaspur, Chhattisgarh.

... **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through The Secretary School Education Department, Mahanadi Bhawan, Mantralaya, New Raipur, District - Raipur, Chhattisgarh.

2 - District Education Officer Bilaspur, District- Bilaspur, Chhattisgarh.

... **Respondent(s)**

(Cause-title is taken from Case Information System)

For Petitioner : Mr. Dheerendra Pandey, Advocate

For State : Mr. Arpit Agrawal, Panel Lawyer

SB- Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

23/01/2026

1. The present writ petition is being filed seeking following reliefs:-

“(i) That, this Hon'ble Court may kindly be pleased to quash the order dated 05.12.2022 and dated 30.01.2023 (Annexure P/1) passed by respondent no. 1 and also directed to the respondent no. 1 should be passed an order in favour of the petitioner to granted two

increment from the date of revoking the suspension order and given payment to the petitioner within specific time.

(ii) Cost of the petition may to also be granted to the petitioner.

(iii) That, any other relief, which the petitioner is entitled and this Hon'ble court deems it fit may kindly, be granted to the petitioner."

2. Facts of the case, in a nutshell, are that the petitioner was appointed in the Education Department of the State and served on the post of Upper Division Teacher. During the course of his service, he was subsequently promoted and ultimately served on the post of Principal. Upon attaining the age of superannuation, the petitioner retired from service on 30.06.2005 from the post of Principal, having rendered long and unblemished service except for the incident referred to hereinbelow. During his service tenure, the petitioner was placed under suspension in March, 2000. Subsequently, disciplinary proceedings were concluded and vide order dated 11.06.2003, the suspension of the petitioner was revoked and a minor penalty of withholding two annual increments with cumulative effect was imposed upon him. Against the said order, no departmental appeal was preferred by the petitioner. The alleged misappropriation of an amount of Rs.1,59,000/- was committed by the Accountant, namely Karimulla Khan, who has already deposited the entire said amount on 02.08.2005. After such deposit, the petitioner was reinstated in service. However,

despite the petitioner having already retired from service, the effect of the punishment of withholding increments with cumulative effect has continued and is adversely affecting the pensionary benefits payable to the petitioner. After retirement, the petitioner approached this Court by filing W.P.(S) No. 8300/2018, seeking restoration of the two increments withheld with cumulative effect by order dated 11.06.2003. The said writ petition was considered by this Court and vide order dated 11.07.2022, this Court directed the respondent authorities to decide the pending representation of the petitioner in accordance with law within a period of eight weeks from the date of receipt of the copy of the order. In compliance with the aforesaid order of this Court, the petitioner submitted a detailed representation before respondent No.1 on 12.01.2023, seeking restoration of the withheld increments and for converting the punishment from cumulative effect to non-cumulative effect, keeping in view the fact that the petitioner had already retired from service. Respondent No.1 decided the representation of the petitioner and rejected the same by order dated 30.01.2023, which was communicated to the petitioner on 22.02.2023. The representation was rejected primarily on the ground that the punishment order dated 11.06.2003 had attained finality as no appeal was preferred at the relevant time and that the petitioner, being the Drawing and Disbursing Officer, could not escape responsibility for the alleged misappropriation. The respondent authorities failed to appreciate

that the entire misappropriated amount of Rs.1,59,000/- had already been deposited by the Accountant, Karimulla Khan, on 02.08.2005 and that the petitioner had no direct role in the alleged misappropriation. The respondents have also failed to consider the fact that the petitioner has been retired since 30.06.2005 and is facing serious financial hardship due to continued reduction in pension on account of the punishment imposed more than two decades ago. The impugned order rejecting the petitioner's representation is arbitrary, unreasonable and violative of the principles of fairness and proportionality, thereby giving rise to the present writ petition.

3. Learned counsel for the petitioner submits that the impugned action and order passed by the respondents are illegal, arbitrary, unreasonable and tainted with mala fides. The respondents have failed to exercise their statutory powers in a fair and judicious manner, thereby violating the rights of the petitioner guaranteed under the Constitution of India. It is further submitted that the impugned order has been passed without affording any reasonable opportunity of hearing to the petitioner. The denial of opportunity to place his case amounts to violation of the principles of natural justice and is also contrary to the applicable service rules and settled principles of law. On this ground alone, the impugned order deserves to be set aside. Learned counsel submits that the respondent No.1 has failed to consider the material and undisputed fact that the Accountant, namely

Karimulla Khan, has already deposited the entire amount of Rs.1,59,000/- on 02.08.2005, which was allegedly misappropriated. In spite of full recovery having been effected from the concerned employee, the respondents have unjustly continued the punishment against the petitioner, thereby adversely affecting his pensionary benefits. Consequently, the petitioner is entitled to restoration of the increments from the date of revocation of suspension. It is further submitted that the respondent No.1 has rejected the petitioner's appeal/representation solely on the technical ground that no appeal was preferred against the punishment order dated 11.06.2003 within the prescribed period. Such an approach is mechanical, hyper-technical and contrary to the spirit of service jurisprudence, particularly when the petitioner had already retired and had approached this Court, which directed consideration of his representation on merits. Learned counsel further submits that the respondents have completely ignored the fact that the petitioner is a senior citizen, who has been retired from service since 30.06.2005 and is facing severe financial hardship due to continuous reduction in his pension on account of the impugned punishment. The impugned order, therefore, suffers from non-application of mind and disproportionality and is liable to be set aside in the interest of justice.

4. Learned State counsel opposes the submissions advanced on behalf of the petitioner and submits that the impugned order has

been passed in accordance with law after due consideration of the relevant records. It is submitted that the punishment imposed upon the petitioner attained finality in the year 2003 and was never challenged within the prescribed period, and therefore no vested right survives in favour of the petitioner to seek restoration of increments at this belated stage. It is further submitted that the petitioner, being the Drawing and Disbursing Officer, was responsible for proper disbursement of Government funds and cannot absolve himself of accountability merely because the amount was later deposited by the Accountant. The plea of violation of natural justice is misconceived, as the petitioner was afforded adequate opportunity during the disciplinary proceedings. Learned State counsel further submits that the petitioner has approached this Court after an inordinate delay and that no arbitrariness or illegality can be attributed to the respondents. The petition being devoid of merit is liable to be dismissed.

5. I have heard learned counsel for the parties and have also perused the documents enclosed along with the petition.
6. In the present case, the punishment order dated 11.06.2003 was admittedly not challenged by the petitioner by way of appeal or otherwise at the relevant time. The petitioner continued in service and ultimately retired in the year 2005. The subsequent recovery of the misappropriated amount from the Accountant does not automatically efface the misconduct or supervisory lapse

attributed to the petitioner, who was holding the position of Drawing and Disbursing Officer. The contention regarding violation of principles of natural justice is also devoid of substance. The disciplinary proceedings culminating in the punishment order were conducted during the service tenure of the petitioner, and no grievance regarding denial of opportunity was raised at that stage. The representation submitted pursuant to the order of this Court was duly considered and rejected by a reasoned order. Therefore, it cannot be said that the impugned order suffers from violation of natural justice. It is a settled position of law that once a punishment order has attained finality, it cannot be reopened or indirectly challenged after an inordinate lapse of time, particularly after retirement, unless the same is shown to be without jurisdiction or passed in gross violation of statutory rules.

7. This Court is also of the view that the direction issued earlier by this Court in W.P.(S) No. 8300/2018 was limited to consideration of the representation in accordance with law. The said direction did not confer any substantive right upon the petitioner nor did it require the respondents to grant the relief sought. The respondents have complied with the said direction by passing a reasoned order, which cannot be interfered with merely because the decision is not favourable to the petitioner. The plea of financial hardship and old age, though sympathetic, cannot be a ground to reopen concluded disciplinary proceedings or to grant relief contrary to settled principles of service jurisprudence.

Judicial review under Article 226 of the Constitution of India is confined to examining the decision-making process and not the merits of the decision itself.

8. Hon'ble Supreme Court in the matter of **Board of Directors, Himachal Pradesh Transport Corpn. v. K.C. Rahi**, reported in **(2008) 11 SCC 502** has held as under :

“6. That the respondent was served with a notice recorded by the Tribunal is finding of fact. In our view, therefore, the High Court has exceeded its jurisdiction by reversing the fact recorded by the Tribunal in exercise of its power under Article 226. Power under Article 226 is to interfere only when there is miscarriage of justice or an error of law on the face of the record but not to reappreciate the evidence recorded by the court of first instance.”

9. Further in the matter of *Union of India v. P. Gunasekaran*, reported in **(2015) 2 SCC 610**, Hon'ble Supreme Court has held as under :

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under

Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

(a) the enquiry is held by a competent authority;

(b) the enquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.”

10. In view of the aforesaid discussion and in the light of the rulings of Hon’ble Supreme Court, this Court finds that the impugned order dated 30.01.2023 does not suffer from any illegality, arbitrariness or perversity warranting interference under Article 226 of the Constitution of India.

11. Accordingly, the writ petition is **dismissed**.

No order as to costs.

Shayna

Sd/-
(Amitendra Kishore Prasad)
JUDGE