courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 02/11/2025

(2018) 02 CHH CK 0151

Chhattisgarh High Court

Case No: Writ Petition (S) No. 1765 Of 2009

Krishna Ram Bhista — APPELLANT

Vs

State Of Chhattisgarh And Ors — RESPONDENT

Date of Decision: Feb. 7, 2018

Citation: (2018) 02 CHH CK 0151

Hon'ble Judges: Sanjay K. Agrawal, J

Bench: Single Bench

Advocate: Hemant Kesharwani, Y.S. Thakur, R.N. Pushty

Final Decision: Allowed

Judgement

Sanjay K. Agrawal, J

1. Learned counsel for the petitioner submits that this Court by order dated 28-07-2008 directed the State to decide the appeal against the

order of termination of the petitioner dated 12-01-2007 in accordance with law.

2. The State Government by order dated 11-11-2008 held that the petitioner is not entitled for pension against which the writ petition has been

preferred. Several grounds have been raised in the memo of appeal but none have been considered.

3. Learned counsel for the petitioner submits that the impugned order is bad in law.

4. On the other hand, learned State counsel would support the impugned order.

5. I have heard learned counsel for the parties and gone through the record with utmost circumspection.

6. A careful perusal of the impugned order would show that number of grounds have been raised by the petitioner before the appellate

authority but none of the grounds have been considered on its own merit. The appellate authority dismissed the appeal holding that the

petitioner is not entitled for pension.

7. It is correct to say that several grounds were raised by the petitioner to question the order of the disciplinary authority inflicting penalty of

stoppage of two annual increments with cumulative effect but none of the grounds were considered by the appellate authority. In fact, in

appeal preferred by the petitioner against the order inflicting penalty, the appellate authority was required to consider (a) whether the

procedure laid down in these rules have been complied with and if not, whether such non-compliance has resulted in the violation of any

provisions of such Constitution of India or in the failure of justice; (b) whether the findings of the disciplinary authority are warranted by the

evidence on the record; and (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe, but it has not been

considered and non-speaking and unreasoned order has been passed.

8. In view of above, the impugned order passed by the appellate authority is hereby set aside. The matter is remitted to the appellate authority

to consider each and every ground raised by the petitioner in appeal afresh and thereafter to pass a reasoned and speaking order in

accordance with law after hearing the petitioner within a period of 2 months from the date of receipt/production of a copy of this order. The

petitioner is at liberty to raise additional grounds, if any, supported by the documents which shall be considered by the appellate authority.

9. The writ petition is allowed to the extent indicated hereinabove. No costs.