

ITEM NO.14

COURT NO.9

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 9813/2019

(Arising out of impugned final judgment and order dated 24-09-2018 in WA No. 459/2017 passed by the High Court Of Chhatisgarh At Bilaspur)

THE STATE OF CHHATTISGARH & ORS.

PETITIONER(S)

VERSUS

INDRA KUMAR KANOJE

RESPONDENT(S)

(IA No. 53298/2019 - EXEMPTION FROM FILING O.T.
IA No. 76294/2019 - VACATING STAY)

WITH

Diary No(s). 294/2020 (IV-C)
(IA No. 19273/2020 - CONDONATION OF DELAY IN FILING
IA No. 19274/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 297/2020 (IV-C)
(IA No. 19578/2020 - CONDONATION OF DELAY IN FILING
IA No. 19579/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 301/2020 (IV-C)
(IA No. 21474/2020 - CONDONATION OF DELAY IN FILING
IA No. 21475/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 314/2020 (IV-C)
(IA No. 20877/2020 - CONDONATION OF DELAY IN FILING
IA No. 20879/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 327/2020 (IV-C)
(IA No. 20874/2020 - CONDONATION OF DELAY IN FILING
IA No. 20876/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 1668/2023 (IV-C)
(IA No. 84094/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 341/2020 (IV-C)
(IA No. 20760/2020 - CONDONATION OF DELAY IN FILING
IA No. 20761/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 348/2020 (IV-C)
(IA No. 26783/2020 - CONDONATION OF DELAY IN FILING
IA No. 26784/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 576/2020 (IV-C)
(IA No. 24913/2020 - CONDONATION OF DELAY IN FILING
IA No. 24914/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 763/2020 (IV-C)
(IA No. 23536/2020 - CONDONATION OF DELAY IN FILING
IA No. 23539/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 767/2020 (IV-C)
(IA No. 24911/2020 - CONDONATION OF DELAY IN FILING
IA No. 24912/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 768/2020 (IV-C)
(IA No. 19058/2020 - CONDONATION OF DELAY IN FILING
IA No. 19061/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 784/2020 (IV-C)
(IA No. 22248/2020 - CONDONATION OF DELAY IN FILING
IA No. 22249/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1404/2020 (IV-C)
(IA No. 24927/2020 - CONDONATION OF DELAY IN FILING
IA No. 24928/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1409/2020 (IV-C)
(IA No. 24678/2020 - CONDONATION OF DELAY IN FILING
IA No. 24679/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1762/2020 (IV-C)
(IA No. 19270/2020 - CONDONATION OF DELAY IN FILING
IA No. 19271/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1764/2020 (IV-C)
(IA No. 19950/2020 - CONDONATION OF DELAY IN FILING
IA No. 19952/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 298/2020 (IV-C)
(IA No. 23475/2020 - CONDONATION OF DELAY IN FILING
IA No. 23477/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 13030/2020 (IV-C)
(IA No. 92863/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 6993/2021 (IV-C)
(IA No. 84200/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 307/2020 (IV-C)
(IA No. 22220/2020 - CONDONATION OF DELAY IN FILING
IA No. 22221/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 349/2020 (IV-C)
(IA No. 98990/2020 - CONDONATION OF DELAY IN FILING
IA No. 98992/2020 - CONDONATION OF DELAY IN REFILEING / CURING THE
DEFECTS IA No. 98994/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 4294/2021 (IV-C)
(IA No. 104523/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 766/2020 (IV-C)
(IA No. 19088/2020 - CONDONATION OF DELAY IN FILING
IA No. 19090/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 13031/2020 (IV-C)
(IA No. 98924/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1401/2020 (IV-C)
(IA No. 27871/2020 - CONDONATION OF DELAY IN FILING
IA No. 27872/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1405/2020 (IV-C)
(IA No. 19890/2020 - CONDONATION OF DELAY IN FILING
IA No. 19891/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 13029/2020 (IV-C)
(IA No. 95635/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1410/2020 (IV-C)
(IA No. 21711/2020 - CONDONATION OF DELAY IN FILING
IA No. 21712/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 11708/2020 (IV-C)
(IA No. 84715/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1417/2020 (IV-C)
(IA No. 104605/2020 - CONDONATION OF DELAY IN FILING
IA No. 104607/2020 - CONDONATION OF DELAY IN REFILEING / CURING THE
DEFECTS
IA No. 104606/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 5841/2020 (IV-C)
(IA No. 29666/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1772/2020 (IV-C)
(IA No. 18501/2020 - CONDONATION OF DELAY IN FILING
IA No. 18502/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 11709/2020 (IV-C)
(IA No. 88953/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 11711/2020 (IV-C)
(IA No. 96505/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 13032/2020 (IV-C)
(IA No. 101855/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9820/2019 (IV-C)
(IA No. 53501/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9829/2019 (IV-C)
(IA No. 56298/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9821/2019 (IV-C)
(IA No. 53323/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9793/2019 (IV-C)
(IA No. 55529/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9822/2019 (IV-C)
(IA No. 53321/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 10309/2019 (IV-C)
(IA No. 58787/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9831/2019 (IV-C)
(IA No. 55492/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9828/2019 (IV-C)
(IA No. 55510/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9832/2019 (IV-C)
(IA No. 55800/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9823/2019 (IV-C)
(IA No. 53728/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9824/2019 (IV-C)
(IA No. 53312/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9825/2019 (IV-C)
(IA No. 53332/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9833/2019 (IV-C)
(IA No. 55412/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9827/2019 (IV-C)
(IA No. 55527/2019 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1765/2020 (IV-C)
(IA No. 16535/2020 - CONDONATION OF DELAY IN FILING
IA No. 16536/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 20596/2019 (IV-C)

(IA No.123663/2019-CONDONATION OF DELAY IN FILING and IA No.123665/2019-EXEMPTION FROM FILING O.T. and IA No.123664/2019-CONDONATION OF DELAY IN REFILING)

SLP(C) No. 20595/2019 (IV-C)
(IA No.122501/2019-CONDONATION OF DELAY IN FILING and IA No.122504/2019-EXEMPTION FROM FILING O.T. and IA No.122503/2019)

SLP(C) No. 10308/2019 (IV-C)
(IA No. 58173/2019 - EXEMPTION FROM FILING O.T.)

Diary No(s). 10991/2019 (IV-C)
(IA No. 111276/2019 - CONDONATION OF DELAY IN FILING
IA No. 111277/2019 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS
IA No. 111278/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 11008/2019 (IV-C)
(IA No. 63861/2019 - EXEMPTION FROM FILING O.T.)

Diary No(s). 11024/2019 (IV-C)
(IA No. 111231/2019 - CONDONATION OF DELAY IN FILING
IA No. 111232/2019 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS
IA No. 111233/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 10999/2019 (IV-C)
(IA No. 63716/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 11307/2019 (IV-C)
(IA No. 67311/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 14650/2019 (IV-C)
(IA No. 64199/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 10310/2019 (IV-C)
(IA No. 58217/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 14656/2019 (IV-C)
(IA No. 58526/2019 - EXEMPTION FROM FILING O.T.)

Diary No(s). 11139/2019 (IV-C)
(IA No. 115487/2019 - CONDONATION OF DELAY IN FILING
IA No. 115495/2019 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS
IA No. 115492/2019 - EXEMPTION FROM FILING O.T.)

Diary No(s). 343/2020 (IV-C)
(IA No. 19040/2020 - CONDONATION OF DELAY IN FILING
IA No. 19046/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 745/2020 (IV-C)
(IA No. 18921/2020 - CONDONATION OF DELAY IN FILING
IA No. 18923/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 775/2020 (IV-C)
(IA No. 16513/2020 - CONDONATION OF DELAY IN FILING
IA No. 16514/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 787/2020 (IV-C)
(IA No. 16428/2020 - CONDONATION OF DELAY IN FILING
IA No. 16429/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 788/2020 (IV-C)
(IA No. 17636/2020 - CONDONATION OF DELAY IN FILING
IA No. 17637/2020 - EXEMPTION FROM FILING O.T.)

Diary No(s). 1759/2020 (IV-C)
(IA No. 18930/2020 - CONDONATION OF DELAY IN FILING
IA No. 18933/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 10306/2019 (IV-C)
(IA No. 58682/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 10302/2019 (IV-C)
(IA No. 56458/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 9826/2019 (IV-C)
(IA No. 55498/2019 - EXEMPTION FROM FILING O.T.)

Date : 06-08-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) Mr. Apoorv Kurup, A.A.G.
Ms. Ankita Sharma, AOR

Mr. Sumeer Sodhi, AOR

For Respondent(s) Mr. Krishna Kumar Singh, AOR

Mr. Deepak Goel, AOR

Mr. Sanjay R Hedge, Sr. Adv.
Mr. Govind Jee, AOR
Mr. Omanakuttan K K, Adv.
Mr. Akhilesh Kumar Mishra, Adv.
Ms. Rambha Singh, Adv.

Mr. Govind Jee, Adv.
Mr. Omanakuttan K. K., AOR

**UPON hearing the counsel the court made the following
O R D E R**

1. The petitioner-State of Chhatisgarh is aggrieved by the common judgment and order dated 24th September, 2018 passed by the Division Bench of the High Court of Chhatisgarh, Bilaspur in a batch of petitions whereby the writ appeals filed by the private respondents were allowed and the common termination order dated 16th June, 2016, passed against them as also the order dated 27th September, 2017, passed by the learned Single judge were set aside with the following observations :

“8. It is not even emerging from the records whether a copy of the finding of the three members enquiry Committee was ever served along with the notices to any of the employees. It seems that only a formality of issuance of a notice of show cause was used as the basis for termination.

9. The issue is not whether these appointments were made strictly in accordance with the advertisement or the selections so made were either irregular or illegal. Both the words and expressions have been used in the order of termination. What is irregular is curable and depends upon the nature of irregularity in the process of such selection. They cannot be equated with the same category of people whose appointment can be said to illegal. But all these terminologies would be required to be used in relation to any of the permanently appointed employees provided, a proper enquiry was held in this regard by the Appointing Authority and not surrendering his power to go into the issue by basing his decision on the inputs or findings provided by a three members Committee, which did not even bother to hear any of the employees, whose right for holding the post was going to be seriously affected and such decision was going to have civil consequences for them.

10. When the matter was taken up on the earlier occasion, the Court directed the Respondent-State authorities to go into the records and produce whether any enquiry was held by the CMHO and whether the record show that these Appellants were given an opportunity before the three member enquiry Committee constituted by the Collector or whether a copy of that report was also given to any of these appointees with the show cause.

11. It seems that the CMHO only issued a show cause to the employees and without even considering the individual responses issued a common order of termination enmass of these employees.

12. The process and procedure which was adopted obviously violates the

principle of natural justice. The employees were required to be given individual notice and proper opportunity by the Appointing Authority before a kind of finding or conclusion could be reached in relation to such appointment being either illegal or irregular. The process and procedure which has been adopted by the Respondent-State authorities is unknown in service jurisprudence, therefore, the order which is under challenge and which has been upheld by the learned Single Judge would be required to be interfered with.

13. The submission of the Additional Advocate General, on the other hand, is that if the findings have come about the illegality and the facts speak for themselves, therefore, the decision so taken by the competent authority cannot be said to be erroneous. Taking the facts into consideration, the learned Single Judge rightly came to the opinion that if appointments were illegal per se therefore, termination could be warranted.

14. The issue is not about the principle. The issue is the manner and mechanism under which the whole exercise has been done. If the employee who is substantively appointed and have been confirmed under services were terminated on the basis of an enquiry in which they were never given an opportunity to participate and only a formality of show cause was issued to them on the basis of the three members Committee report, then in our opinion, it does not satisfy requirements of the rules of the natural justice or requirement under the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966.

15. In the facts and circumstances, we therefore, hold the order of termination dated 16.06.2016 passed by the CMHO, Baloda Bazar as well as the order dated 27.09.2017 passed by the learned Single Judge upholding such decision of termination to be irrational and arbitrary and therefore, they deserve to be set aside and are set aside. It goes without saying that all these Appellants will be reinstated in their services forthwith.

16. The respondents, however, are given liberty that they will issue individual notices and hold enquiry in relation to the appointments on the post so made of all these terminated employees and this exercise cannot be a collective exercise because the authorities will have to identify as to which appointment was irregular and which appointment was illegal in the enquiry. In the departmental proceeding to be held and on the findings thereon, the law will take its course. The said enquiry will be concluded preferably within a period of six months.

17. Before disposing these appeals, the Court also directs all the appellants that on the notice so given to them by the Appointing Authority who is said to be CMHO, Baloda Bazar, they will co-operate in the enquiry and will not unnecessarily delay the same on one pretext or the other."

2. Learned counsel for the petitioners submits that out of the 121 excess appointments made by the petitioners in various posts in the category of Class III and IV employees, 93 employees have been reinstated thus, leaving 28

employees.

3. We have perused the impugned judgment and are of the opinion that instead of entertaining the present petitions, it would be appropriate for the petitioner-State to comply with the impugned order in a time bound manner and thereafter, the disciplinary authority shall pass appropriate orders on conclusion of the inquiry.

4. The petitioners are directed to complete the entire process within six months from today and take a decision within the same timeline, under due intimation to all the concerned employees. Status quo with regard to service of such of the employees who have been reinstated, shall be maintained till then.

5. The Petitions for Special Leave to Appeal are disposed of.

6. Till the entire process is concluded and an order is passed by the disciplinary authority, no coercive steps shall be taken against the petitioners in any petition for contempt or otherwise filed by the private respondents.

(Divya Babbar)
Court Master (NSH)

(Geeta Ahuja)
Assistant Registrar-cum-PS