



2026:CGHC:7569-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 942 of 2025**

Ashok Kumar Gatpalli S/o Late Suraiya Gatpalli Aged About 30 Years
Posted As Peon, At Government High School, Benglur, Block-
Bhairamgarh, District- Bijapur, Chhattisgarh.

... Appellant**versus**

1 - State Of Chhattisgarh Through The Secretary, Department Of School
Education, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District- Raipur
(C.G.)

2 - Collector Tribal Welfare, District- Bijapur, Chhattisgarh.

3 - Assistant Commissioner Tribal Welfare, District- Bijapur, Chhattisgarh.

4 - District Education Officer District- Bijapur, Chhattisgarh.

5 - Block Education Officer Block - Bhairamgarh, District- Bijapur,
Chhattisgarh.

... Respondents

(Cause title taken from Case Information System)

For Appellant : Mr. Mateen Siddiqui, Advocate

For Respondents/State : Mr. Praveen Das, Addl. Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

11/02/2026

1. Heard Mr. Mateen Siddiqui, learned counsel appearing on behalf of the appellant as well as Mr. Praveen Das, learned Additional Advocate General appearing on behalf of the respondents/State on I.A. No. 2 of 2025, which is an application for condonation of delay of 17 days in preferring the instant appeal.
2. On due consideration and for the reasons mentioned in the application, the same is allowed and the Delay of 17 days in filing the present writ appeal stands condoned.
3. With the consent of the learned counsel appearing for the parties, and in the interest of justice, the Court proceeds to hear and decide the present writ appeal finally.
4. The present writ appeal under Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006, has been preferred by the appellant challenging the order dated 17.09.2025 passed by the Hon'ble Single Judge in WPS No. 10580 of 2025, whereby the writ petition filed by the appellant seeking quashing of the impugned termination order dated 19.02.2025 issued by the District Education Officer, Bijapur, was disposed of directing the appellant to approach the appellate authority. The appellant, in the writ petition as well as in the present appeal, has assailed the termination order on multiple

grounds, including violation of principles of natural justice, lack of jurisdiction on the part of the District Education Officer to pass such an order, failure to follow the mandatory procedure prescribed under Rule 14 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966, and arbitrariness in retrospectively applying the Finance Department Circular dated 22.03.2018 reducing the period of deemed resignation from five years to three years.

5. The facts of the case, as emerges from the pleadings of the appeal, are that, the appellant, Ashok Kumar Gatpalli, son of Late Suraiya Gatpalli, was appointed as Peon in the Government service under the Tribal Welfare Department pursuant to the policy of compassionate appointment issued by the State Government in a letter dated 10.02.2012, in consequence of the tragic demise of his father in a Naxalite incident. The appointment order dated 30.09.2014 was issued by the Assistant Commissioner, Tribal Welfare, Bijapur, and the appellant joined his duties at Boys Ashram, Koshalnar, Block Bhairamgarh, District Bijapur on 15.10.2014.

The appellant served diligently and with utmost sincerity; however, in mid-2015, he developed serious urological and renal complications requiring continuous medical treatment and hospitalization. The appellant was admitted to District Hospital, Jagdalpur, and later to CHC Usoor, and medical certificates were issued recommending leave on medical grounds initially from 15.07.2015 to 29.12.2015, and subsequently extending the leave till 20.06.2016.

During the period of his medical leave, a temporary transfer/attachment order dated 30.01.2016 was issued by the Block Education Officer, Bhairamgarh, attaching the appellant to Government High School, Benglur. It is significant to note that this order was only temporary in nature and did not affect the appellant's substantive posting, which remained at Boys Ashram, Koshalnar, under the Tribal Welfare Department.

On partial recovery, the appellant reported for duty at Government High School, Benglur on 29.11.2016, submitting a medical fitness certificate (Form-4) issued by CHC Usoor, and a written representation expressing his readiness to resume duties. Despite this, the authorities neither acknowledged his joining nor issued any order confirming or denying his resumption of service.

Subsequent medical certificates dated 11.12.2017 confirmed that the appellant's medical condition required further rest and leave. The appellant consistently submitted representations seeking regularization of his medical leave and permission to resume duties, including applications dated 04.04.2018 to the Assistant Commissioner, Tribal Welfare, 19.06.2019 to the District Education Officer, and 21.07.2019 and 07.11.2019 to the Collector, Bijapur, all reflecting his bona fide intention to continue service, including on a 'no work, no pay' basis. Despite these repeated efforts, the authorities failed to consider or acknowledge his requests.

In disregard of the appellant's medical justification and

repeated representations, a purported departmental inquiry was initiated, and, vide impugned order dated 19.02.2025, the District Education Officer, Bijapur, terminated the appellant from service, relying on Rule 11 of the Chhattisgarh Civil Services (Leave) Rules, 2010, and Rule 18 of the Chhattisgarh Fundamental Rules, along with Finance Department Circular dated 22.03.2018, declaring that absence exceeding three years would be deemed as resignation. No show cause notice, charge sheet, or opportunity of hearing was provided to the appellant, and the alleged departmental inquiry report was never furnished, thereby violating the principles of natural justice.

It is also noteworthy that the impugned termination order was issued by the District Education Officer, who is not the appointing authority of the appellant. The appellant's substantive posting continued to remain under the Tribal Welfare Department, and therefore the authority issuing the termination order lacked jurisdiction. The procedure mandated under Rule 14 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966, requiring service of articles of charge, statements of imputations, lists of documents and witnesses, and an opportunity to file written defense and personal hearing, was wholly disregarded.

Further, the Finance Department Circular dated 22.03.2018, which reduced the period of deemed resignation from five years to three years, was applied retrospectively to the appellant's absence commencing in 2015, which is prior to the issuance of the circular.

Such retrospective application adversely affects the vested rights of the appellant and is impermissible under Articles 14 and 16 of the Constitution of India.

Aggrieved by the termination order, the appellant approached this Court by filing WPS No. 10580 of 2025. The learned Single Judge disposed of the writ petition on 17.09.2025, directing the appellant to avail the alternative departmental appellate remedy, without considering the jurisdictional conflict between the Tribal Welfare Department and the School Education Department, the violation of natural justice, and the procedural infirmities in the termination proceedings.

6. Mr. Mateen Siddiqui, learned counsel appearing for the appellant would submit that, the impugned termination order dated 19.02.2025 issued by the District Education Officer (DEO), Bijapur, is wholly without jurisdiction and liable to be quashed. The appellant was appointed as Peon under the policy of compassionate appointment by the Assistant Commissioner, Tribal Welfare, Bijapur, following the demise of his father in a Naxalite incident. The Assistant Commissioner, Tribal Welfare, is the competent appointing authority and continues to hold the power to regulate, supervise, or take disciplinary action in respect of the appellant.

Learned counsel submits that the State has filed a policy in respect of AC Tribal schools, wherein it has been mentioned that the AC Tribal schools have been merged into the School Education

Department. However, it is submitted that such administrative merger does not confer jurisdiction on the DEO to terminate the services of employees whose substantive appointment lies under the Tribal Welfare Department. In the instant case, the DEO passed the impugned termination order, whereas the appellant's substantive posting and service continue to be under the Tribal Welfare Department. Therefore, the DEO, belonging to the School Education Department, is not the competent authority to pass the termination order.

It is further submitted that the Assistant Commissioner, Tribal Welfare, being the appointing authority of the appellant, is the only competent authority to initiate, consider, or pass any disciplinary action or termination order in respect of the appellant. The State has itself admitted, in its additional reply, that the petitioner was transferred temporarily to Government High School, Benglur, under the School Education Department. This fact clearly demonstrates that the DEO's jurisdiction was only limited to the temporary attachment and that the impugned termination order issued by him is wholly without authority.

Learned counsel submits that the impugned order was passed without issuance of any show cause notice, charge sheet, or articles of charge. No opportunity was ever given to the appellant to file a written statement of defense or to be heard in person, in complete violation of Rule 14 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966. The alleged departmental inquiry

report was never furnished to the appellant despite his specific request, and this violation of natural justice renders the impugned order void ab initio.

The temporary transfer of the appellant has been explicitly admitted by the State in its additional reply. Hence, the contention that the DEO is competent to terminate the appellant's service is wholly untenable. The impugned order is therefore an exercise of authority by a person who had no power to pass such an order, and is liable to be quashed.

Learned counsel further submits that the appellant's absence from duty was entirely due to medical reasons, duly certified by competent government medical authorities. He repeatedly submitted representations expressing his willingness to resume duties, including on a 'no work, no pay' basis. Despite this, the DEO and other authorities failed to consider or acknowledge his representations, and terminated his services arbitrarily. This conduct on the part of the respondents is arbitrary and violative of Articles 14 and 16 of the Constitution of India.

In view of the above, it is respectfully submitted that, (i) the impugned termination order dated 19.02.2025 passed by the DEO, Bijapur, is without jurisdiction and void ab initio; (ii) the DEO, not being the appointing authority, had no power to pass the said order; (iii) the appellant's substantive posting continues under the Tribal Welfare Department, and the Assistant Commissioner, Tribal Welfare,

being the competent authority, alone can initiate or pass any disciplinary proceedings or termination; (iv) the temporary transfer/attachment of the appellant to the School Education Department has been admitted by the State in its additional reply; (v) the impugned termination order being arbitrary, illegal, and passed in violation of natural justice, deserves to be quashed; and (vi) the appellant may be reinstated to his substantive post under the Assistant Commissioner, Tribal Welfare, with all consequential benefits and continuity of service.

Learned counsel, therefore, prays that this Hon'ble Court may be pleased to allow the present writ appeal and grant such other relief(s) as deemed fit in the facts and circumstances of the case.

7. Mr. Praveen Das, learned Additional Advocate General appearing for the State submits that, the present writ appeal is not maintainable in view of the efficacious statutory remedy available to the appellant under Rule 23 read with Rule 27 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966. The learned Single Judge, while disposing of WPS No.10580/2025, has already granted liberty to the appellant to prefer an appeal against the order of termination and has protected him from objection on limitation. Instead of availing the said remedy, the appellant has invoked the intra-court appellate jurisdiction of this Hon'ble Court. In service matters involving disciplinary proceedings, where disputed questions of fact arise, the statutory appellate forum is the appropriate remedy.

It is not disputed that the appellant was appointed on 30.09.2014 as Peon in the Boys Tribal Hostel School on compassionate grounds. However, pursuant to the Government Order dated 10.03.2015 issued by the General Administration Department, the management, supervision and control of schools run by the Tribal Development Department, Urban Administration Department and School Education Department were centralized under the School Education Department to ensure administrative uniformity. Consequent to this policy decision, disciplinary and service control over such employees vested in the School Education authorities. The appellant was transferred from Boys Hostel, Kaushal Nagar to Government High School, Benglur, District Bijapur, and thereafter remained under the administrative control of the School Education Department. Hence, the District Education Officer had the requisite jurisdiction to pass the impugned order.

The record clearly establishes that the appellant remained unauthorizedly absent from duty from 15.09.2015 onwards without sanctioned leave. Though he relies upon certain medical certificates, mere submission of such certificates does not amount to automatic sanction of leave under the service rules. Show cause notices were issued on 24.10.2019 and again on 08.10.2024. A departmental enquiry was initiated on 05.11.2024, an Enquiry Officer was appointed, and notice was issued to the appellant to appear on 30.01.2025. The appellant neither participated in the enquiry nor submitted any satisfactory explanation. Upon completion of the

enquiry, the report was submitted and the termination order dated 19.02.2025 was passed.

The impugned order has been passed in accordance with Rule 11 of the Chhattisgarh Civil Services (Leave) Rules, 2010 and Rule 18 of the Fundamental Rules, read with the Finance Department Circular dated 22.03.2018, which provides that continuous unauthorized absence beyond three years shall be treated as deemed resignation. The appellant's absence was prolonged and continuous, and therefore the competent authority was justified in invoking the said provisions. There is no retrospective application, as the misconduct was continuing in nature and subsisted even after issuance of the circular.

In view of the above facts and circumstances, there is neither lack of jurisdiction nor violation of principles of natural justice. Adequate opportunity was afforded to the appellant, but he failed to avail the same. The learned Single Judge rightly relegated the appellant to the statutory appellate remedy. The present writ appeal, being devoid of merit and substance, deserves to be dismissed.

8. In response to the reply filed by the State, learned counsel appearing for the appellant has filed the rejoinder, in which he submits that the entire defence of the State rests upon a fundamentally erroneous interpretation of the Government Order dated 10.03.2015. The respondents seek to justify the jurisdiction of the District Education Officer by loosely asserting a "merger" of departments; however, a

plain and clause-wise reading of the said order demonstrates that it pertains exclusively to the administrative unification of government schools from primary to higher secondary level. The order does not contemplate transfer of residential welfare institutions such as Boys Ashram (Hostel), nor does it effect a wholesale transfer of appointing or disciplinary authority over hostel staff. The attempt of the State to stretch the scope of the notification beyond its textual limits is legally unsustainable.

It is undisputed that the appellant was appointed on compassionate grounds vide order dated 30.09.2014 by the Assistant Commissioner, Tribal Welfare, District Bijapur, and was substantively posted at Boys Ashram (Hostel), Koshalnar. The appellant has never been substantively absorbed into the School Education Department, nor has any order been placed on record demonstrating a lawful transfer of his cadre or disciplinary control. The impugned termination order dated 19.02.2025 has been issued by the District Education Officer, an authority belonging to a different department, who is neither the appointing authority nor shown to be vested with disciplinary powers over employees of Tribal Welfare hostels. In service jurisprudence, competence of the authority goes to the root of the matter; an order passed by an authority lacking jurisdiction is void ab initio.

A careful reading of Clause (4) of the Government Order dated 10.03.2015 expressly preserves the responsibility of residential arrangements of ashram schools and hostels with the Tribal Welfare

Department. This clause clearly indicates a conscious legislative and administrative intent to retain control over residential welfare institutions. Further, Clause (11) provides that employees of Educational Cadre-B shall continue to receive promotions, transfers and service benefits in accordance with the rules of their parent department and within their pre-determined territorial jurisdiction. Even assuming, without admitting, that the appellant could be categorized under such cadre, his service conditions and disciplinary control would remain governed by the Tribal Welfare Department. The respondents have selectively relied upon Clause (8) while ignoring these limiting provisions, thereby presenting an incomplete and distorted reading of the order.

Without prejudice to the jurisdictional objection, the impugned termination order is vitiated by gross procedural irregularity. The termination amounts to a major penalty, yet no proper charge-sheet conforming to Rule 14 of the CCA Rules was served, no articles of charge were framed in the prescribed manner, and no inquiry report was furnished to the appellant. The appellant had, upon recovery, physically reported for duty in 2017 and submitted medical fitness certificates along with written representations. The respondents neither passed a speaking order accepting nor rejecting his joining, thereby keeping him in a state of administrative uncertainty. Having failed to act at the relevant time, the respondents cannot now retrospectively characterize the period as unauthorized absence without addressing their own inaction.

The belated issuance of show cause notices after years of silence, coupled with refusal to consider the appellant's bona fide attempts to resume duty, renders the action arbitrary and violative of Articles 14 and 16 of the Constitution. The respondents have failed to rebut the central issue of lack of jurisdiction and have not provided any cogent explanation for disregarding the appellant's medical condition and representations. In these circumstances, the impugned termination order suffers from jurisdictional error, violation of statutory procedure and breach of principles of natural justice, and therefore deserves to be set aside by this Hon'ble Court.

9. The State counsel has also filed the additional reply in the case, in which he submits that, the impugned order of termination dated 19.02.2025 has been passed strictly in accordance with law and by the competent authority after the petitioner remained continuously and repeatedly absent from duty without authorization. The record reflects that the petitioner was unauthorizedly absent from 15.07.2015 to 30.12.2015, thereafter continued to remain absent till 26.06.2016, and again remained absent till 29.11.2016. Such prolonged and unexplained absence constitutes grave misconduct under the applicable service rules. Departmental proceedings were accordingly initiated and culminated in the order impugned, which does not suffer from procedural or jurisdictional infirmity.

It is further submitted that by virtue of the Government Order dated 10.03.2015 issued by the General Administration Department, the management and control of schools run under the Scheduled

Caste and Scheduled Tribe Department and other departments were brought under the administrative control of the School Education Department to ensure uniformity and efficient governance. The petitioner seeks to rely selectively upon Clause 2 and Clause 4 of the said order; however, those clauses are inapplicable to the factual matrix of the present case. Clause 4 pertains specifically to appointments in residential schools, whereas the petitioner, though initially appointed as a Peon at Boys Ashram, Kaushal Nagar on compassionate grounds, was subsequently attached to High School Bengaluru, District Bijapur, vide order dated 30.01.2016.

The petitioner's own documents (Annexure P/4) and pleadings in paragraph 8.4 of the writ petition unequivocally establish that his services stood attached to High School Bengaluru. The petitioner accepted the said attachment without demur and, upon reporting on 29.11.2016, submitted a medical certificate and thereafter addressed a representation dated 19.06.2017 to the District Education Officer seeking sanction of medical leave and permission to continue as Peon in Higher Secondary School, Bengaluru. Having invoked the jurisdiction of the District Education Officer for service benefits, the petitioner is estopped from contending that the School Education Department lacked administrative or disciplinary control over him.

It is humbly submitted that the Government Order dated 10.03.2015 vested full administrative control and management of the concerned institutions with the School Education Department. Consequently, the District Education Officer was fully competent to

exercise disciplinary jurisdiction over the petitioner. The contention that the petitioner continued exclusively under the Tribal Welfare Department is factually incorrect and contrary to the documentary record. The plea of lack of jurisdiction is therefore devoid of merit and deserves outright rejection.

In view of the petitioner's repeated unauthorized absence, acceptance of attachment under the School Education Department, and the statutory competence of the District Education Officer to initiate and conclude disciplinary proceedings, the impugned order does not warrant interference under appellate jurisdiction. The writ appeal is devoid of substance, raises no substantial question of law, and is liable to be dismissed with costs.

10. We have heard learned counsel for the parties and perused the material annexed with the writ petition as well as the writ appeal.
11. Having heard learned counsel for the parties at length and upon perusal of the record, this Court is of the considered view that the present writ appeal does not merit interference. The learned Single Judge has relegated the appellant to the statutory appellate remedy available under Rule 23 read with Rule 27 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966. It is well settled that where an efficacious alternative remedy is available, writ jurisdiction ought not to be invoked except in exceptional circumstances such as patent lack of jurisdiction, violation of principles of natural justice, or infringement of fundamental rights.

The Hon'ble Supreme Court in ***State of U.P. v. Mohd. Nooh***, AIR 1958 SC 86; ***Whirlpool Corporation v. Registrar of Trade Marks***, (1998) 8 SCC 1; and ***Union of India v. T.R. Varma***, AIR 1957 SC 882, has consistently held that availability of an effective alternative remedy is a sound rule of self-restraint. In the present case, none of the exceptional contingencies warranting bypass of the statutory appellate forum are made out.

12. The principal contention of the appellant relates to alleged lack of jurisdiction of the District Education Officer to pass the impugned termination order. However, the material placed on record indicates that pursuant to the Government Order dated 10.03.2015 issued by the General Administration Department, administrative control and management of institutions run by various departments, including Tribal Welfare, were centralized under the School Education Department. The appellant was admittedly attached to Government High School, Benglur, and had reported there for duty. He addressed representations to the District Education Officer seeking sanction of leave and continuation in service. Having accepted administrative control and sought service benefits from the School Education authorities, the appellant cannot now approbate and reprobate by disputing the disciplinary jurisdiction of the said authority. The doctrine of approbation and reprobation, as explained in ***Rajasthan State Industrial Development & Investment Corporation v. Diamond & Gem Development Corporation***, (2013) 5 SCC 470, precludes such inconsistent pleas.

13. Even otherwise, the question whether disciplinary control validly stood vested in the School Education Department pursuant to the Government policy decision involves examination of factual and service record aspects, which are appropriately adjudicated by the statutory appellate authority. The Supreme Court in ***Union of India v. P. Gunasekaran*, (2015) 2 SCC 610**, has held that judicial review in disciplinary matters is confined to the decision-making process and not the merits of the decision, and that adequacy or sufficiency of evidence cannot be reappreciated by the writ court. The appellant seeks a re-evaluation of departmental records, which falls outside the limited scope of intra-court appellate review at this stage.

14. On the aspect of alleged violation of natural justice, the record reveals that show cause notices were issued, a departmental enquiry was initiated, an Enquiry Officer was appointed, and opportunity was granted to the appellant to participate in the proceedings. The appellant chose not to avail the opportunity. It is settled law that principles of natural justice cannot be stretched to protect an employee who deliberately abstains from participating in the enquiry. In ***State Bank of Patiala v. S.K. Sharma*, (1996) 3 SCC 364**, and ***Aligarh Muslim University v. Mansoor Ali Khan*, (2000) 7 SCC 529**, the Hon'ble Supreme Court has held that unless prejudice is demonstrated, mere technical violation would not vitiate disciplinary proceedings. The appellant has failed to establish any specific prejudice occasioned to him.

15. The contention regarding retrospective application of the Finance

Department Circular dated 22.03.2018 is equally untenable. The absence of the appellant was continuous and extended well beyond the issuance of the circular. Continuous unauthorized absence constitutes a continuing misconduct. The Supreme Court in ***MCD v. Prem Chand Gupta, (2000) 10 SCC 115***, and ***Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu, (2014) 4 SCC 108***, has held that prolonged unauthorized absence is a grave misconduct warranting disciplinary action and that courts should not ordinarily interfere with such decisions. In the present case, the authority invoked the relevant Leave Rules and Fundamental Rules applicable at the time when the misconduct subsisted. No vested right of the appellant has been demonstrated to have been taken away retrospectively.

16. In view of the foregoing discussion, this Court finds no perversity, patent illegality, or jurisdictional error in the order of the learned Single Judge relegating the appellant to the statutory remedy. The issues raised involve disputed questions of fact and examination of departmental records, which are more appropriately addressed by the appellate authority under the CCA Rules, 1966. Interference in intra-court appellate jurisdiction under Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 is therefore unwarranted.
17. Accordingly, the present writ appeal is **dismissed**. The appellant shall be at liberty to avail the statutory appellate remedy, if so advised, and if such appeal is preferred within a period of thirty days

from today, the appellate authority shall consider the same on its own merits, in accordance with law, without raising the objection of limitation. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

ved